United States Court of Appeals

for the Second Circuit

APPENDIX

ORIGINAL

CA 75-7519

B
P/S

IN THE

United States Court of Appeals

For the Second Circuit

No. CA 75-7519

THE FIRST NATIONAL BANK OF CINCINNATI,
Plaintiff,

against

SIDNEY PEPPER,
Appellant-Cross Appellee,

ROSALIE M. ARLINGHAUS, Individually; ROSALIE M. ARLINGHAUS, as Custodian for Frank H. Arlinghaus, Jr.; ROSALIE M. ARLINGHAUS, as Custodian for John C. Arlinghaus; ANNA MARIE SCHLERETH; HARRY W. BOGAARDS, JR.; ELSIE W. COX; RICHARD M. HOUGH; RALPH J. DEL CORO; BERTHA A. BROGLIE; ALIX ANN ARLINGHAUS,
Appellees.

ROSALIE M. ARLINGHAUS, as Executrix of the Will of Frank H. Arlinghaus,
Appellee-Cross Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOINT APPENDIX

EXHIBITS
(Vol. II)

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UNITED STATES COURT OF APPEALS
FILED
JAN 29 1976
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

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PAGINATION AS IN ORIGINAL COPY

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PEPPER EXHIBIT B

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TRUST AGREEMENT

-between-

HOWARD H. EBERLE, SETTLOR

-and-

HOWARD H. EBERLE and HOWARD H. EBERLE, JR., TRUSTEES

Dated May 18th, 1965.

DeWITT, PEPPER & HOWELL

120 BROADWAY

NEW YORK

AGREEMENT made this 18th day of May, 1965, between HOWARD H. EBERLE of 1334 N.W. 14th Court, Boca Raton, Florida, hereinafter called "Settlor", and HOWARD H. EBERLE and HOWARD H. EBERLE, JR. of 92 Franklin Avenue, Oakland, New Jersey, hereinafter called "Trustees",

W I T N E S S E T H :

In consideration of the premises and the sum of One Dollar ($1.00) and of other good and valuable consideration paid to Settlor by Trustees, the receipt of which is hereby acknowledged, Settlor does hereby assign and transfer to Trustees the securities listed in the Schedule hereto annexed, to have and to hold the same, and any other property of any kind constituting principal which Trustees may at any time hereafter acquire (all of which securities and other property are hereinafter referred to collectively as the Trust Fund), in trust, upon the terms and conditions hereinafter set forth.

I. Trustees shall invest and reinvest the Trust Fund, shall collect the income thereof and shall, during the life of Settlor pay or apply the income thereof remaining after the deduction of all proper charges to, or to the use of, Settlor, quarterly, or at more frequent intervals as may be most convenient to Settlor. In the event that the amounts so payable to Settlor do not in the sole and absolute judgment and discretion of Trustees provide for the comfortable well being of Settlor or if Settlor shall be in need of additional funds for the purpose of maintenance, comfort or support of himself or for any other purpose or purposes, Trustees may from time to

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time pay to Settlor for such purpose or purposes such part or all of the principal of the entire trust estate as Trustees in their sole and absolute discretion shall deem advisable, without regard to any obligations herein set forth or implied to preserve or conserve any of the trust estate for any of the beneficiaries hereinafter designated. The interests of the other beneficiaries are expressly made subordinate to the exercise by Trustees of the foregoing discretionary power and the judgment of Trustees shall be conclusive on all persons interested in this trust.

II. If Settlor's wife, Helen H. Eberle, shall survive Settlor, upon the death of Settlor. Trustees shall pay or apply the income of the entire Trust Fund after the deduction of all proper charges, to, or to the use of Helen H. Eberle, during her life, quarterly, or at more frequent intervals, as may be most convenient to Trustees.

III. If Helen H. Eberle shall survive Settlor, then upon the death of Helen H. Eberle Trustees shall, as hereinafter provided, convey, transfer, pay over and distribute property of such kind as Trustees may in their sole discretion select from the principal held in trust hereunder, equal in value to one half of the value of the Settlor's adjusted gross estate as hereinafter defined, reduced, however, by the value of all property and interests in property, including, but not being limited to, the proceeds of insurance on Settlor's life, which shall pass or have passed from Settlor to Helen H. Eberle

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otherwise than pursuant to this trust agreement and which shall qualify for the marital deduction to Settlor's estate under the provisions of the United States Internal Revenue Code; provided, however, that the property so selected shall have an aggregate fair market value fairly representative of the appreciation or depreciation in the value to the date or dates of each distribution of all property then available for distribution under this Article. Such conveyance, transfer, payover and distribution shall be in such proportions to the estate of Helen H. Eberle free of any trust or to any person or persons in further trust or in fee, as Helen H. Eberle shall by her last will and testament appoint or direct by valid testamentary provisions specifically referring to and exercising this power; so much of the principal held in trust hereunder which is not so validly and effectively appointed by Helen H. Eberle shall be added to the principal of the trust which shall continue to be held subject to the provisions of Article IV hereof, for the uses and benefits therein mentioned.

As used in this Article "Settlor's adjusted gross estate" shall mean Settlor's "adjusted gross estate" as defined in and "marital deduction" shall mean the "marital deduction" provided for in Section 2056 of the United States Internal Revenue Code or in such other statutory provision which shall correspond thereto at the time of Settlor's death. The values of the property selected to be held in trust as hereinbefore provided and the values of Settlor's adjusted gross estate and of the property and interests in property passing to

Helen H. Eberle as hereinbefore referred to, shall in each case be determined on the basis of the values thereof as finally determined by agreement, litigation or otherwise for the purpose of fixing the Federal estate tax on Settlor's estate. It is Settlor's intention to obtain the maximum marital deduction allowable to his estate by reason of the aforesaid trust and the provisions hereof shall be construed so as to give full effect to Settlor's said intention. Anything herein to the contrary notwithstanding, only such assets of this trust which qualify for the marital deduction or the proceeds of the sale or other disposition of such qualifying assets shall be used to satisfy the provisions of this Article and assets which do not qualify for the marital deduction or which are subject to any estate or death taxes in any foreign country shall not be used to satisfy such provisions. It is hereby expressly provided that the grant of rights, powers, privileges, authority and immunities to Trustees and the imposition of duties upon Trustees by any provisions of this agreement shall be ineffective, if and to the extent that the same, if effective, would disqualify for the marital deduction any interest passing to Helen H. Eberle under this Article.

IV. Upon the death of Helen H. Eberle, if she shall have survived Settlor, Trustees shall divide into two equal parts the balance of the principal of the trust hereunder which shall not be subject to the power of appointment referred to in Article III hereof in favor of Helen H. Eberle and any portion of the principal of the trust subject to the

said power of appointment as to which Helen H. Eberle shall not have validly and effectively exercised her power of appointment as provided in Article III, and shall hold such equal parts for the uses and benefits hereinafter mentioned.

(a) During the lives of Howard H. Eberle, Jr. and Brian Keith Eberle, the net income from one of such equal parts shall be paid or applied to the use of Howard H. Eberle, Jr. and upon his death to the use of his then surviving issue in equal shares, per stirpes and not per capita. Upon the death of the survivor of Howard H. Eberle, Jr. and of Brian Keith Eberle, Trustees shall convey, transfer, pay over and distribute the said part after the deduction of all proper charges to the then surviving issue of Howard H. Eberle, Jr. in equal shares per stirpes and not per capita and in default of such issue the balance of said part shall be added to the part held in trust hereunder for the other issue of Settlor and in default of such other issue then surviving to the persons who would then be entitled thereto under the laws of the State of New Jersey, if such property were real property belonging to Settlor as to which he were then to die intestate.

(b) During the lives of Roberta Mangano, Peter Eugene Mangano and David Joseph Mangano, the net income from one of such equal parts shall be paid or applied to the use of Roberta Mangano and upon her death to the use of her then

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surviving issue in equal shares, per stirpes and not per capita. Upon the death of the last survivor of Roberta Mangano, Peter Eugene Mangano and David Joseph Mangano, Trustees shall convey, transfer, pay over and distribute the said part after the deduction of all proper charges to the then surviving issue of Roberta Mangano in equal shares per stirpes and not per capita and in default of such issue the balance of said part shall be added to the part held in trust hereunder for the other issue of Settlor and in default of such other issue then surviving to the persons who would then be entitled thereto under the laws of the State of New Jersey, if such property were real property belonging to Settlor as to which he were then to die intestate.

(c) If any beneficiary hereunder shall be in need of additional funds for the purpose of maintenance, comfort or support or for any other purpose or purposes, which Trustees shall deem for the best interest of such beneficiary, Trustees shall have authority to pay to such beneficiary such amounts of the principal held hereunder for the benefit of such beneficiary as Trustees in the exercise of their sole and absolute discretion shall deem advisable for such purpose.

(d) If after the deaths of Settlor and Helen H. Eberle the principal held hereunder shall at any time be reduced in the opinion of Trustees to an amount which

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in their judgment shall make it inadvisable or too expensive to administer under this agreement, then anything contained herein to the contrary notwithstanding, Trustees in their sole and absolute discretion may pay over and distribute the entire remaining principal of the respective parts absolutely in equal shares per stirpes and not per capita to Settlor's then surviving issue for whose benefit it is held.

V. If any part of the principal held hereunder shall vest in absolute ownership in a minor or minors, Trustees in their sole and absolute discretion, may hold the property so vested in such minor, or any part thereof, in a separate fund for the benefit of such minor, and invest and reinvest the same, collect the income therefrom and, during the minority of such minor, pay or apply so much of the principal thereof and so much of the net income therefrom and accumulated income to the support, education or maintenance of such minor as Trustees shall see fit and accumulate, invest and reinvest the balance of said income until such minor shall attain the age of twenty-one (21) years, and thereupon pay the then principal, together with any accumulated income, to such minor. If such minor shall die before attaining the age of twenty-one (21) years, the then principal and any accumulated

income, shall be paid over to the estate of such minor. The authority conferred upon Trustees by this Article shall be construed as a power only and shall not operate to suspend the absolute ownership of such property by such minor or to prevent the absolute vesting thereof in such minor. With respect to any property held under this Article, Trustees shall have all the powers, privileges, discretions and immunities conferred upon them elsewhere in this agreement and shall not be required to give any bond or other security for the faithful performance of their duties hereunder in any jurisdiction whatsoever, or if any bond is required, no surety shall be required thereon.

VI. In addition to such powers as they may have by law Trustees are authorized and empowered with respect to any property at any time held in trust hereunder, whether as principal or income, in their sole and absolute judgment and discretion and without applying to any court for permission so to do or for instructions in regard thereto, as follows:

(1) Whenever, pursuant to this agreement, they are authorized or directed to pay any income or principal hereunder to any beneficiary at any time and from time to time, to apply the same in whole or in part for the benefit of such beneficiary, in lieu of paying the same to such beneficiary; in determining the amount to be applied, to disregard and not to take into consideration the amount of income receivable by such beneficiary from

other sources or the amount of the independent property of such beneficiary or the extent to which such beneficiary may be entitled to support by another person; and among other methods, to pay without receiving a bond therefor, all or any part of such income or principal, at any time and from time to time, to such beneficiary or to anyone with whom such beneficiary may reside without responsibility to see to the application or use of any payments so made.

(2) To retain for such time as they may determine it is advisable so to retain and without regard to any "prudent man" rule with respect to investments, any and all assets which may be received from Settlor and to invest and reinvest all funds and other assets held by them hereunder in investments other than participations in mortgages as they, in their sole and absolute judgment and discretion, may consider in the best interests of the beneficiaries hereunder, wholly without regard to whether or not such assets and investments shall be investments authorized for fiduciaries under the laws of the State of New Jersey or any other State.

(3) To serve as officers, directors or employees of corporations, the stocks, bonds or other securities of which may be held by them as trustees, to retain as part of the trust hereunder such stocks, bonds or other securities for such periods as they may determine in their sole and absolute judgment and discretion it is advisable so

to do, and to receive such compensation for their services to such corporations as the directors of such respective corporations other than them, may authorize.

(4) To take possession of, collect the rents from, and manage, all of the real property and all interests in real property received from Settlor.

(5) To sell, mortgage or lease any or all real property held by them hereunder, wheresoever situated, at such time and upon such security and in such amounts as they may determine to be for the best interests of the beneficiaries hereunder, and in selling the same to take a portion of the purchase price by way of mortgage thereon or otherwise.

(6) To compromise, submit to arbitration and settle any and all claims and demands that may exist against, or in favor of the trust hereunder.

(7) To vote, either personally or by proxy, upon any shares of stock that may be held by them hereunder.

(8) To retain investment counsel or advisers and custodians and to charge the fees, if any, of such counsel or advisers or custodians partly or wholly to principal or income as they shall determine.

(9) To consent to the sale, lease, mortgage or any other disposition of any property by, and the reorganization, consolidation, merger, dissolution or

any other corporate action of, any corporation, any securities of which may be held by them hereunder, to exchange securities so held for such securities as may be issued in connection therewith, to receive and hold such new securities, and to perform any other acts in respect thereto that may be necessary or proper to enable them to obtain the benefit of such sale, lease, mortgage, or other disposition of property and of such reorganization, consolidation, merger, dissolution or other corporate action.

(10) To pay all assessments, subscriptions and other sums of money which they may deem expedient for the protection of their interests as holders of any securities.

(11) To exercise any or all conversion or subscription rights and other options pertaining to any securities held by them and to receive and hold any new securities procured through any such exercise.

(12) Generally, to exercise in respect of all securities and other property held by them, all rights, powers and privileges, which are, or might be lawfully exercised by any person owning similar property in his absolute right, as well as and in addition to the powers conferred by statute or otherwise lawfully existing.

(13) For convenience of administration to hold any two or more funds created hereunder in solido.

(14) Whenever they are required to divide the

principal held hereunder into parts or to distribute the same, to determine who are entitled to receive distributive shares, and the proportions of their shares, and in so doing to act upon such information as on reasonable inquiry they may deem reliable with respect to identity, relationship or other facts relative to the distributees, to make such division or distribution in cash or in other property, real or personal, or partly in cash and partly in property or by the allocation of undivided interests therein, and in connection therewith their judgment concerning the propriety of such division, distribution or allocation and the relative value for the purpose of such division, distribution or allocation shall be binding and conclusive on all persons interested therein.

(15) To charge all reasonable expenses against the gross income or against the principal of the funds held hereunder as they, in their sole and absolute discretion, shall deem proper.

VII. The following provisions shall to the extent indicated therein apply to the administration of this trust:

(1) If any securities shall be purchased or otherwise acquired at a premium by Trustees, Trustees shall not be required to set aside any part of the income therefrom as a sinking fund to amortize, absorb or retire such premium, or to make provision for possible depreciation in the value of securities by reason of the approaching maturity thereof, or any thereof, or otherwise.

(2) All distributions made by a corporation whose shares of stock are held at any time hereunder, payable in the stock of the corporation making such distribution, and distributions of corporate assets on the liquidation of the corporation, shall be, and constitute a part of the principal held hereunder. Other distributions, including capital gain distributions of regulated investment companies, payable in cash or in the securities of any corporation other than the corporation making such distribution shall be, and constitute, income hereunder. If rights to subscribe to stocks, bonds or other securities shall accrue upon any of the securities at any time held hereunder, Trustees are authorized in their sole and absolute judgment and discretion to exercise such rights or to sell the same. The stocks, bonds or other securities obtained through the exercise of such rights shall be and constitute, a part of the principal, but the proceeds of the sale of such rights shall be and constitute income.

(3) No purchaser of any property, real, personal or mixed, sold pursuant to any authority, power or direction contained herein, shall be bound or required to ascertain or inquire as to the necessity or propriety of any such sale or shall be bound or required to see to the application of the purchase moneys.

(4) The carrying charges, as well as any deficit

in the carrying charges, of any unproductive real estate or of any real estate which may not produce sufficient income to pay all of the carrying charges thereof shall be paid out of principal, and the entire proceeds of the sale of any such property shall be added to the principal.

(5) The decision of Trustees with respect to the exercise or non-exercise by them of any discretionary power hereunder, or the time or manner of the exercise thereof, made in good faith, shall fully protect them and shall be conclusive and binding upon all persons interested hereunder. All powers granted to Trustees shall apply to accumulated income as well as to principal, shall continue until actual distribution of the property, and shall apply to any property held for minors under this agreement.

(6) Trustees may at any time and from time to time render, and Trustees' executors or administrators may render, to the beneficiaries who shall be of full age and competent at the time when such account is rendered, an account of the acts and transactions of Trustees with respect to the trust hereunder from the date hereof or from the date of the last previous account of Trustees, as the case may be; and such beneficiaries shall have full power and authority on behalf of all persons interested in the trust hereunder finally to settle and adjust such account; and upon such account being settled

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and adjusted to the satisfaction of such adult beneficiaries, it shall be final and conclusive upon each and every person (whether then living or then ascertainable or not) who shall then or thereafter be or become interested in either the income or the principal of the trust hereunder, with like effect as a judgment of a court having jurisdiction, judicially settling such account in an action in which Trustees and all persons having or claiming any interest in the trust hereunder were parties; and the approval of such account by such adult beneficiaries shall constitute a full and complete discharge and release of Trustees from all further liability, responsibility, and accountability for or with respect to the acts and transactions of Trustees as set forth in said account, both as to the income and as to the principal of the trust hereunder. The foregoing provision, however, shall not preclude Trustees from having their account judicially settled if they shall so desire.

(7) Anything hereinbefore to the contrary notwithstanding, the powers granted to Trustees to pay to a beneficiary principal held in trust for such beneficiary for the purpose of maintenance, comfort or support or for any other purpose or purposes, shall not extend to a trustee when such trustee is such a beneficiary, but such powers as to the principal held in trust for such

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trustee-beneficiary shall be exercisable only by the other trustee then acting as such hereunder and with the same force and effect as if such powers were specifically granted to such other trustee alone.

VIII. If Settlor's estate shall not have sufficient funds to satisfy all estate or death taxes by whatever name called, including interest and penalties thereon, imposed under the laws of any jurisdiction by reason of Settlor's death, Trustees shall pay over to the legal representative or representatives of Settlor's estate, such amount or amounts from the principal of the trust not subject to the power of appointment in favor of Helen H. Eberle provided for in Article III, as may be needed to pay the balance of such estate or death taxes, including interest and penalties thereon. Trustees shall have no duty or obligation to inquire as to the correctness, or as to the propriety of the payment, of any amount or amounts stated by Settlor's legal representative or representatives in any written instrument to be so needed or to see to the application thereof by such legal representative or representatives and Trustees' payment to such legal representative or representatives, shall be a full and complete discharge of Trustees with respect to such payment or payments.

IX. If either trustee shall die, resign or become incapacitated, his successor shall be Roberta Mangano of 812 Bogert Road, River Edge, New Jersey. None of the aforesaid trustees shall receive any compensation for their services as trustees hereunder.

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X. If at any time there shall be only one of the aforesaid trustees acting as such hereunder, and such trustee shall desire to have one or more trustees to serve with such sole surviving trustee or after such surviving trustee's death, then such surviving trustee may designate the person or persons or trust company in the order determined by such surviving trustee to serve as trustees hereunder. If there shall be no such successor trustee designated, the Chase Manhattan Bank, of New York, New York, shall be the successor trustee. Any designation of a successor trustee may be made in a writing executed and acknowledged in the manner required to make a deed relating to real property situated in the State of New Jersey eligible for recording.

XI. Trustees may receive any real or personal property, securities, sums of money or policies of life insurance from Settlor or any other person or persons for the purposes of this trust, and all such receipts shall be held by Trustees subject to the terms of this agreement. Any sums of money or other property so received shall immediately be added to the trust estate and be held, invested, and managed, and payments therefrom made, in accordance with the provisions hereof.

XII. Every trustee hereunder whether or not specifically named herein shall have all of the powers including discretionary powers herein granted to Trustees, except the power to designate successors, which has been limited to the individual trustees specifically named herein.

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XIII. The trust hereby created shall be administered in the State of New Jersey unless the successor trustees shall be residents of another State and in all respects shall be governed by the laws of the State of New Jersey.

XIV. This trust is irrevocable, and Settlor does not reserve any right to alter, amend, revoke, or terminate this trust in whole or in part at any time.

IN WITNESS WHEREOF, Settlor and Trustees have hereunto set their hands and seals as of the day and year first above written.

Howard T. Ellis Settlor (L.S.)

Howard T. Ellis Trustee (L.S.)

Howard K. Hall Trustee (L.S.)

Schedule Annexed to Agreement dated May 18th , 1955 between HOWARD H. EBERLE, Settlor and HOWARD E. EBERLE and HOWARD E. EBERLE, JR., Trustees

Voting Trust certificates for 13,400 shares of Modern Talking Picture Service, Inc., a Delaware corporation.

Voting Trust certificates for 350 shares of Modern Teleservice, Inc., a New York corporation.

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

On this 18th day of May, 1965, before me personally came HOWARD H. EBERLE, to me known and known to me to be the individual described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same.

Sidney Pepper

SIDNEY PEPPER
Notary Public, State of New York
No. 30-8322050
Qualified in Nassau County
Cert. filed in New York County
Commission Expires March 30, 1966

STATE OF NEW JERSEY)
) ss:
COUNTY OF BERGEN)

On this 19th day of May, 1965, before me personally came HOWARD H. EBERLE, JR., to me known and known to me to be the individual described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same.

HERMAN F. MORITZ, JR.
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES FEB. 8, 1970

State of New Jersey)
County of BERGEN) ss.:

Howard H. Eberle, Jr., being duly sworn deposes and says:

The foregoing is a true and complete copy of the trust agreement between Howard H. Eberle, as Settlor, and Howard H. Eberle and Howard H. Eberle, Jr., as Trustees, dated May 18, 1965.

Howard H. Eberle, Jr.

Sworn to before me this
4th day of April, 1966.

HERMAN F. MORITZ, JR.
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES FEB. 8, 1970

PPER EXHIBIT D

400a OC

FORM 1041

U.S. Treasury Department
Internal Revenue Service

U.S. FIDUCIARY INCOME TAX RETURN

(FOR ESTATES AND TRUSTS) FOR CALENDAR YEAR

or other taxable year beginning ..... , 1965
and ending ..... , 19...

PLEASE TYPE OR PRINT

1965

Check whether:
- ☐ Estate
- ☒ Simple trust
- ☐ Complex trust

If Trust, check whether:
- ☐ Testamentary
- ☒ Inter Vivos

Name of estate or trust: HOWARD H. EBERLE AND HOWARD H. EBERLE, JR., TRUSTEES U/A dated May 18, 1965 between ~~Howard H. Eberle as settlor and the trustees~~

Name, address, and title of fiduciary: HOWARD H. EBERLE JR., Trustee
92 Franklin Avenue,
Oakland, New Jersey 07436

Postal ZIP code

Employer Identification Number of Estate or Trust:

Simple trusts are not required to fill in Schedules E, F, and G. They need complete only the lines and schedules that apply to them. See page 2 of instructions.

INCOME	1. Dividends (enter full amount before exclusion)	5,547.00	
	2. Interest on bank deposits, notes, corporation bonds, etc.	0	
	3. Interest on tax-free covenant bonds upon which a Federal income tax was paid at source	0	
	4. Interest on Government obligations, etc	0	
	5. Income from partnerships and other fiduciaries (instruction 5)	0	
	6. Gross rents and royalties	0	
	7. Gross profit (or loss) from trade or business	0	
	8. (a) Net gain (or loss) from sale or exchange of capital assets (from line 11, Schedule D)	0	
	(b) Net gain (or loss) from sale or exchange of property other than capital assets (from line 23, Schedule D)	0	
	9. Other income (state nature of income)	0	
	10. Total income (lines 1 to 9, inclusive)		5,547.00
DEDUCTIONS	11. Interest (Schedule A)	0	
	12. Taxes (Schedule A)	0	
	13. Fiduciary's portion of depreciation (Schedule B) and depletion. Explain depletion	0	
	14. Charitable deduction (line 9, Schedule E)	0	
	15. Other deductions authorized by law (Schedule A)	0	
	16. Total (lines 11 to 15, inclusive)		0
	17. Line 10 minus line 16. (Complex trusts and estates enter this amount on line 1 in Schedule F, also)		5,547.00
	18. Deduction for distributions to beneficiaries (instruction 18)	5,247.00	
	19. Adjustment on dividend exclusion (not to exceed $100) (instruction 19)	0	
	20. Federal estate tax attributable to income in respect of a decedent (Fiduciary's share)	0	
	21. Long-term capital gain deduction. Enter 50% of line 12(e), Schedule D	0	
	22. Exemption (instruction 22)	300.00	
	23. Total (lines 19 to 22, inclusive)		5,547.00
	24. Taxable income of fiduciary (line 17 minus line 23)		0
COMPUTATION OF TAX	25. Tax on amount on line 24 (see tax rate schedule in instruction 25)		0
	26. If alternative tax is applicable, enter the tax from line 21, Schedule D		0
	27. Fiduciary's share of foreign tax credit (Form 1116)		
	28. Fiduciary's share of investment credit (see instruction 38 and attach Form 3468)		0
	29. Total of lines 27 and 28		0
	30. Balance (line 25 or 26, whichever is applicable, less line 29)		0
	31. Tax from recomputing fiduciary's share of prior year investment credit (attach statement)		0
	32. Total of lines 30 and 31		
	33. Fiduciary's share of credit for tax paid at source on tax-free covenant bond interest		
	34. Credit from regulated investment companies (attach Form 2439)		
	35. Tax previously paid, or withheld (see instruction 35 and attach explanation)		0
	36. Total of lines 33, 34, and 35		
	37. Balance of tax or overpayment (line 32 less line 36)		

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. If prepared by a person other than taxpayer, his declaration is based on all information of which he has any knowledge.

Signature of fiduciary or officer representing fiduciary — Date: April , 196

Signature of preparer other than fiduciary — Address: 120 Broadway, New York 5, N.Y. — Date: March 29, 196

16—75817-1

Schedule A.—EXPLANATION OF DEDUCTIONS CLAIMED ON LINES 11, 12, and 15, PAGE 1 (see instruction 36)

Line No.	Explanation	Amount	Line No.	Explanation	Amount

Schedule B.—EXPLANATION OF DEDUCTION FOR DEPRECIATION (see instruction 37)

This schedule is designed for taxpayers using the alternative guidelines and administrative procedures described in Revenue Procedure 62-21 as well as for those taxpayers who wish to continue using procedures authorized prior to the revenue procedure. Where double headings appear use the first heading for the new procedure and the second heading for the older procedure.

1. Group and guideline class — OR — Description of property	2. Cost or other basis at beginning of year — OR — Cost or other basis	3. Asset additions in year (amount) — OR — Date acquired	4. Asset retirements in year (amount) (applicable only to Rev. Proc. 62-21)	5. Depreciation allowed or allowable in prior years	6. Method of computing depreciation	7. Class life — OR — Rate (%) or life	8. Depreciation for this year
1. Total additional first-year depreciation—estates only (do not include in items below) →							
2. Totals							
3. Less: Amount of depreciation claimed elsewhere in this return							
4. Balance (line 2 less line 3)							
5. Fiduciary's portion of line 4. Enter here and on line 13, page 1							

Schedule C.—BENEFICIARIES' SHARES OF INCOME AND CREDITS (estates and complex trusts, see instruction 38)

	1. Name of each beneficiary (Designate nonresident aliens, if any)	2. Address (Where return of beneficiary is filed in another internal revenue district, specify district, if known)	3. Social security number (See instructions)
(a)	Howard H. Eberle	133[illegible] N.W. 14th Court, Boca Raton, Fla. 33432 (I.R.S. Jacksonville, Fla.)	058-10-1159
(b)			
(c)			
(d)			

Continuation of Schedule C

	4. Amount of income required to be distributed currently	5. Other amounts paid, credited, or otherwise required to be distributed	6. Domestic dividends qualifying for exclusion	7. Income taxable to beneficiaries less portion reportable in cols. 6, 8, 9, and 10
(a)	5,247.00	0	0	5,247.00
(b)				
(c)				
(d)				
Totals	5,247.00	0	0	5,247.00

Continuation of Schedule C

	8. Net short-term capital gain	9. Net long-term capital gain (100%)	10. Tax-exempt income, and foreign income of a foreign trust (enter total only)	11. Federal income tax paid at source (2% of line 3, page 1, less line 33, page 1)	12. Income and profits taxes paid to a foreign country or United States possession	13. Depreciation and depletion
(a)	0	0		0		
(b)						
(c)						
(d)						
Totals	0	0	0	0	0	0

ADDITIONAL INFORMATION REQUIRED

1. Was a Form 1041 filed for last year? ☐ Yes ☒ No. If "Yes," to which District Director's office was it sent? _____

2. Date trust was created or, if an estate, date of decedent's death. May 18, 19[illegible]

3. If copy of will or trust instrument and statement required under General Instruction "H" has been filed do not file again but enter date and place where filed. _____

4. If you had tax-exempt income, have you deducted only that portion of expenses allocable to taxable income? ☐ Yes ☐ No.

5. If return is for a trust, enter name and address of grantor: Howard H. Eberle 1334 N.W. 14th Court, Boca Raton, Florida 33432

6. If decedent's estate has a United States Estate Tax Return been filed? ☐ Yes ☐ No.
If "No," will return be filed? ☐ Yes ☐ No ☐ Uncertain.

7. Has final distribution of assets been made during the year? ☐ Yes ☒ No. If answer is "Yes," see instruction 22.

16—78817-1

EXHIBIT 1 - E

EXCERPTS OF TRANSCRIPT OF PROCEEDINGS IN THE

DELAWARE COURT OF CHANCERY (HOUGH V. MTPS, et al.)

DATED MAY 13, 1968

PRINTED IN VOLUME 1 PAGES 35a TO 434a

PEPPER EXHIBIT CC

KNOW ALL MEN BY THESE PRESENTS THAT,

WHEREAS, Howard H. Eberle, Settlor, entered into an agreement with himself and Howard H. Eberle, Jr., as Trustee, dated May 18, 1965, under which Howard H. Eberle and Howard H. Eberle, Jr. have been acting as trustees; and

WHEREAS, Howard H. Eberle, Jr. has resigned as a trustee under the said trust agreement; and

WHEREAS, pursuant to Article IX of the said trust agreement, Roberta Mangano has become a successor trustee; and

WHEREAS, Roberta Mangano has resigned as a trustee under the said trust agreement; and

WHEREAS, under Article X of the said trust agreement, the sole trustee acting as such hereunder may designate additional trustees under the said trust agreement,

NOW, THEREFORE, the undersigned Howard H. Eberle as the sole remaining trustee acting as such under the said trust agreement of May 18, 1965, does hereby designate his wife, Helen H. Eberle and the said Howard H. Eberle, Jr. as trustees to serve with him as trustees under the said trust agreement of May 18, 1965, and does further designate his daughter, Roberta Mangano, to serve as a trustee under the said trust agreement in place of said Helen H. Eberle and Howard H. Eberle, Jr. in the event of the death of either of such trustees or their resignation.

Dated: March 6, 1968.

Howard H. Eberle
Howard H. Eberle

STATE OF ~~FLORIDA~~ New York)
COUNTY OF New York) ss.:

On this 22nd day of March, 1968, before me personally came HOWARD R. LEVELL, to me known and known to me to be the individual described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same.

Sidney Segal
Notary Public

I hereby resign as Trustee under the Trust Agreement dated May 18, 1965 in which Howard H. Eberle is the Settlor.

Howard H. Eberle

Howard H. Eberle, Jr.

February 21, 1968

I hereby resign as Trustee under the Trust Agreement dated May 18, 1965 in which Howard H. Eberle is the Settlor.

Roberta L. Mangano

Roberta Mangano

February 21, 1968

HELEN H. EBERLE and HOWARD H. EBERLE, JR. respectively agree to serve as trustees under the aforesaid trust agreement dated May 18, 1965 between Howard H. Eberle, Settlor, and Howard H. Eberle and Howard H. Eberle, Jr., Trustees, pursuant to the foregoing designation.

Dated: March 6, 1968.

Helen H. Eberle
Helen H. Eberle

Howard H. Eberle Jr.
Howard H. Eberle, Jr.

ARLINGHAUS EXHIBIT 1-A

499a

CABLE: LEGAVOCATS

DE WITT, PEPPER & HOWELL
ATTORNEYS AND COUNSELLORS AT LAW
120 BROADWAY, NEW YORK 5, N.Y.
WORTH 4-4040

BENJAMIN P. DeWITT
SIDNEY PEPPER
HARRY E. HOWELL

WASHINGTON, D.C. OFFICE
1908 Q STREET, N.W.
DUPONT 7-5424

January 4, 1966

Mr. Carl H. Lenz, President,
Modern Talking Picture Service, Inc.,
1212 Avenue of the Americas,
New York, New York.

Dear Carl:

Pursuant to the request at the last directors' meeting we are setting forth our understanding of the retainer of this firm by the corporation.

The retainer includes all legal services for the corporation of the character and amount heretofore performed which can be performed in the City of New York during customary business hours, but not litigation and special services such as trademark services. No charge shall be made by us for any legal services not covered by the retainer except with your prior approval.

If the character of the corporation's business should change substantially by reason of the entry into new activities, we shall have the right to ask for a reconsideration of the amount of the retainer.

We suggest that the retainer be for a calendar year with automatic renewal for consecutive like periods unless either of us shall request a change before October 1st of the current year. For the first year hereunder the amount of the retainer is to be considered and fixed at the next Board of Directors meeting.

If there is anything in the foregoing which is not entirely clear or which you may wish to add, I will be glad to discuss it with you at your convenience.

Very sincerely,

Sid

SP:cm

3/15/66
Changed to fiscal year
Notification as of 3/1 annually

RECEIVED
C. H. LENZ-HDQTRS.
DEC 7 1966
MTPS, INC.

PEPPER EXHIBIT V

Cross-Claimants'
Ex. NN for id.
3/28/72 sf.

501a

Bell & Howell Company

7100 McCORMICK ROAD · CHICAGO 60645

OFFICE OF
PETER G. PETERSON
PRESIDENT

October 4, 1967

Dear Mr. Pepper:

Our Mr. Gardner informs me that you are representing the Arlinghaus family and other shareholders of Modern Talking Pictures, as well as the company itself, in the sale or merger.

As you know, Bell & Howell has for some time expressed an interest in Modern Talking Pictures. Now that the company is prepared to give consideration to a sale or merger, we intend to prepare and submit an offer to you at an early date.

We have taken some time to talk to Carl Lenz and determine that the present management is willing to remain and would feel comfortable as part of the Bell & Howell family. I have met Carl and Bill MacCallum, and several of our executives have met with a number of the other top people at Modern. We are very favorably impressed with the top management of Modern and would want to have them interested in remaining.

After I have had an opportunity to visit with Mr. Gardner and some of my financial people, I will be in touch with you again, perhaps in a week or so. At that time we can discuss the price that Bell & Howell could pay for MTP, as well as some of the possible terms of a deal.

Very truly yours,

Pete Peterson

RECEIVED
OCT 9 1967
DeWITT PEPPER & HOWELL

Mr. Sydney Pepper
120 Broadway
New York, New York 10005

ARLINGHAUS EXHIBIT 23

I MTPS Sale

September 22, 1967 503a

Met with John Rogers, John Giannetti of Bear, Stearns & Co. and Mr. Lefkowitz of Seidman & Co., accountants. They wanted to buy MTI on behalf of Sonderling Broadcasting (American Exchange) and then expressed an interest in MTPS. Quoted 4½ million.

SP:cm

504a

September 25, 1967

Met with Russell Carp, President and Treasurer of Screen Gems. Talked to him for 3½ hours. He is very anxious to acquire the company. Believe he will pay on the basis of 4 million. Told him that shareholders wanted more. I think the price can be compromised at 4½ million.

SP:cm

SSS

MTPS

505a

September 25, 1967

Conferred with Messrs. Lenz, Oard and Vickers about the distribution of the stockholders stock.

Mr. Lenz reaffirmed that Bell & Howell was interested but that we wanted to talk to Bell & Howell and also stated that he had an inquiry from Xerox.

Telephoned Mr. MacCallum who may make 30% available but has not definitely committed himself.

Mr. Eberle said he would agree to give 30% to management and 10% to me. Mrs. Arlinghaus went along with Mr. Eberle.

Mr. Bogaards declined to make any stock available.

Tried to get Schlereth.

Mr. Begaards stated that a friend of his with whom he was having dinner Thursday night expressed an interest and Bogaards had told him the price would be 8 million.

SP:cm

G MTPS
506a Sale

September 26, 1967

Dalton

Conferred with the legal Vice President of Consolidated Electronics at 100 E. 42nd Street for 1½ hours with Irwin Rudich. Filled them in on the activities of the corporation. On the question of price the Vice President concluded that we wanted between 5 and 10 million.

SP:cm

Cross Claimants'
Ex. 67's for id.

TP's

507a-3/26/70-gp

September 27, 1967

Mr. Lenz alerted me to the fact that Al Gardner, Vice-President of Bell & Howell would communicate with me.

He did later in the day over the telephone. I gave him a lot of information and told him that apart from tax problems which would depend upon the nature of the deal, the real question was one of price; that I had some strong willed shareholders to satisfy; that some thought the price should be as high as 10 Million; that I agreed that that might be a little high and that based on earnings I thought perhaps 2 Million would be a fair price, but that I thought the price should not be determined on the basis of earnings only but on potential; that in our case two and two might make eight. He stated he was returning to Chicago and would confer with his associates and the Executive Commitee and communicate with me next week to give me a price.

I told him that as a fiduciary I had been confering with others and that management seemed to favor their company.

We also discussed the Hallgarten situation.

SP:cm

T T T

508a

October 3, 1967

Ed Gardner of Bell & Howell telephoned from Chicago. He wanted to know whether we were interested in convertible preferred or common stock. I said I was more interested in knowing about price. He indicated that they were thinking of 2¼ million. and that Hallgarten had asked for ten times earnings. I told him that I had what I believe an offer of 4½ million from a movie company. He is going to ponder price and get back to me next week or the following week.

SP:cm

UUU
509a

October 10, 1967

MTPS Sale

Went to Mr. Bogaards office at his request to meet his close friend Mr. Firkser. Mr. Firkser has a group of investors which has bid as much as 16 Million for a business. They are interested in the company.

I told him that I wanted 5 Million on the basis of the company's potential. He is to check with his associate, a Mr. Hildebrand.

Later in the day Mr. Firkser called and asked if I would meet with Mr. Hildebrand and Mr. Firsker at 10.00 A.M. on October 17th to explore the matter. I agreed to do so.

SP:cm

WWW
510a

October 17, 1967

MTPS Sale

Conferred with Albert Hildebrand and George Firkser about a possible sale of MTPS. Mr. Firkser is a friend of Harry Bogaards.

Mr. Hildebrand is interested in a cash transaction and apparently at not more than ten times earnings.

He might be interested in purchasing the sponsored film division, if that should be sold to another and then be available for resale.

SP:cm

Albert Hildebrandt
654 Mad Ave.
N.Y.
421-08-18

V V V

511a

October 17, 1967

MTPS Sale

Mr. Carp of Screen Gems called. He wants financial data. Told him that I would have to speak to Carl before I could send him such data.

SP:cm

512a

XXX

October 24, 1967

MTPS SALE

Mr. Gardner called me at home from Washington airport and offered $3,600,000.00. He wanted an answer by Thursday, 10 A.M. for a special board of directors meeting. I told him that I doubted that I could get that answer for that day and that in any event I had to do certain things (have the stock issued to Lenz, etc.) before his board of directors made a formal offer.

Mr. Rudich called and stated that Philips was not ready to by the company, but would be interested in buying it at this time for ten times earnings. I told him that was inadaquate.

Rudich also stated that CBS would like to buy the company but has been advised that it cannot do so without facing anti-trust problems. He is to get some word from General Electric tomorrow.

SP:cm

MTPS

513a

October 25, 1967

Met with Harris Shapiro and Steve Weil at the Algonquin Hotel and then at the Association of the Bar at 2.30 P.M. prior to meeting with Mr. Richard Wolfson, Senior Vice-President of Wometco at the Harvard Club at 3.30 P.M. We asked them for 5 million . I told them about the company. His primary interest was in getting Teleservice.

At 4.45P.M. we went over to MTPS and met with Bill Oard who answered questions about the company and showed them around the office.

I telephoned Bill Oard in the evening at home and discussed the matter with him. We are to meet Friday with Carl Lenz.

SP:cm

514a277

October 26, 1967

MTPS SALE.

Mr. Rudich telephoned. He stated that General Electric was interested and that he thought Raytheon and Sylvania might be interested and that he would approach them.

SP:cm

515a~~AAAA~~

MTPS

October 26, 1967

Harris Shapiro called and stated that he thought Wometco would come up with a 4½ million price; that their board was meeting Tuesday and we should hear from them by Wednesday.

He stated that Metro media turned down both companies.

SP:cm

MTPS

BBBB

516a

October 27, 1967

I met Rosalie and Bill Oard at the MTPS office. Conferred for about an hour. At 12 o'clock we had lunch at.Charley O's.

Left them to go to Ritenour's office about 3 o'clock and picked up a draft of the Fuqua-Teleservice, contract.

At 4.30 went to MTPS to confer with Lenz, Vickers, Oard, and Rosalie. Left papers with Lenz and called Wolfson in Florida from MTPS office.

SP:cm

CCCC

517a

October 31, 1967

MTPS SALE

Mr. Gardner telephoned and stated that he wanted a reply by Friday morning as to whether we would accept the Bell & Howell offer.

SP:cm

DDDD

518a

November 1, 1967

MTPS Sale

2 o'clock at MTPS. Conferred with Carl Lenz and Bill MacCallum about the future of the company, the sale, etc. At 3 P.M. conferred with the foregoing and Mr. Rabinowitz, Treasurer of MGM and Falkner Haven. MGM wants to acquire the company but the meeting broke up before any price was suggested. They are to communicate with Carl some time next week.

SP:cm

519a

November 1, 1967

From the office of Harris Shapiro at 888 Eighth Avenue, I spoke to Esberg Sonderling in California, President of Sonderling Broadcasting Company. He wants to acquire the company. I told him that one shareholder had valued it at 10 million, but I thought that was too high. He complained to Steve Weil that he was prepared to offer 4½ million and perhaps go to 5 million, but 10 million seemed too high. Nevertheless he said he would fly to New York next week to talk to me.

SP:cm

MTPS

GGGG

520a

November 2, 1967

I tried to reach Alexander Gardner at 6 o'clock. He was out. He called me back at my home. I told him that without Carl's authorization I could not give him an answer at this time for their directors meeting on November 3rd. I told him that I was having problems in getting agreement on the part of the shareholders. He said he could recommend to Peterson that they allow us until the end of the month to see if they could get the stockholders consent.

FFFF

521a

November 2, 1967

MTPS

Ritenour called re MTPS. He wanted to know if Fuqua could have the company. I told him he would have to talk to Carl.

He called Carl later in the day, but Carl was not available at the time.

SP:cm

522a

MTPS

November 6, 1967

Mr. McCandless called. He has a new acquiring corporation, a New York Stock Exchange listed publishing company, which is interested in MTPS. He also inquired about MTI. He will be in touch with me next week.

SP:cm

[III

MTPS

523a

November 7, 1967

Met with Rudich at 6.30 P.M. and representatives of Sylvania electric products, Dr. Edward Maltzman and T. R. Shepherd.

SP:cm

GENERAL SYSTEM

AREA CODE 617
275-0300

T. R. SHEPHERD
MANAGER — EDUCATIONAL SYSTEMS

COMMERCIAL ELECTRONICS DIVISION
SYLVANIA ELECTRIC PRODUCTS INC.

P. O. BOX 268
BURLINGTON ROAD
BEDFORD, MASS. 01730

GENERAL SYSTEM

AREA CODE 617
275-0300

DR. EDWARD MALTZMAN

COMMERCIAL ELECTRONICS DIVISION
SYLVANIA ELECTRIC PRODUCTS INC.

P. O. BOX 268
BURLINGTON ROAD
BEDFORD, MASS. 01730

MTPS sale
524a JJJ

November 8, 1967

Carl Lenz stated that I should not proceed with any new parties on the MTPS sale, but I could continue with Wometco. He told me he had informed Rich that they were not interested in a Fuqua deal.

SP:cm

KKKK

525a

November 22, 1967

MTPS Sale

Gardner of Bell & Howell called and stated he had heard rummons about MLA being sold to one company. I told him that there was no basis to the rumors. He then stated he had to put in a report to his people and that he was withdrawing all offers and, if we were interested in negotiating we would have to start anew.

I called Oard to relate this to him and he called Carl, who telephoned me.

Carl told me that the company was not for sale and I told him that I had not had any negotiations with anyone since he had advised me to that effect a few weeks ago except on the preceding night I had dinner with General Telephone people and Oard. Sent them papers.

He stated that he had not gotten any figure from MGM.

SP:cm

Re: MTPS sale 2/26/68

II

526a

At the request of Laird & Company met at their office today from 3.00 P.M. to 4.30 P.M. with Kirby Westheimer, Kimberly's assistant and an official of Laird & Company and their Boston counsel.

SP:cm

EXCERPTS FROM

ARLINGHAUS EXHIBIT 23-A

Cross-Claimants'
Ex. L for id.
3/27/73 cjs.

EX. 2-A

528a

June 14, 1967

Mr. S. John Loscocco, Partner,
Robert A. Weaver, Jr. & Associates,
State Street Bank Building,
Boston, Massachusetts 02110.

Dear Mr. Loscocco:

Mr. Lenz has sent me your letter of June 9, 1967, as attorney for most of the shareholders.

If I understood your letter correctly, your firm will not look to or claim of the shareholders or any of them or their corporation in any way whatsoever for compensation for any services in connection with the subject matter of your letter or any transaction developing from your activities in connection with the affairs of the corporation.

Is your client's stock listed on the New York Stock Exchange?

If you agree that my understanding is correct and will so advise me by signing the enclosed copy of this letter and returning it to me, I will take the matter up with the shareholders so that you may be able to elaborate on your thoughts.

Very sincerely,

SP:cm

Cross-Claimants'
Ex. K for id.
3/22/72 gp.

529a

June 22, 1967

Mr. S. John Loscocco, Partner,
Robert A. Weaver, Jr. & Associates,
State Street Bank Building,
Boston, Massachusetts 02110.

Dear Mr. Loscocco:

Mr. Lenz has not been authorized to enter into any discussions such as you propose. Until such time may arise, it will not be in order for him to do so.

We appreciate your interest in the company and thank you for considering us.

Very sincerely,

SP:cm

Class Cancels
Ag. J for ltr. 3/22/72 cfs

530a

ROBERT A. WEAVER, JR. & ASSOCIATES
State Street Bank Building, Boston, Massachusetts 02110
Telephone: 617-426-7801 Cable: WEABOST

June 28, 1967

Sidney Pepper, Esquire
DeWitt, Pepper & Howell
120 Broadway
New York, New York 10005

Dear Mr. Pepper:

Many thanks for your June 22 note.

We shall await your further comments or suggestions, when you feel the time is right to carry our proposal to the next step for preliminary discussions.

Sincerely yours,

ROBERT A. WEAVER, JR. & ASSOCIATES

S. John Loscocco

S. John Loscocco
Partner

SJL/fcm

RECEIVED
JUN 30 1967
DeWITT PEPPER & HOWELL

Cross-Claimants'
Ex. No. for id.
3/22/78 gp.

531a



WOMETCO ENTERPRISES, INC.

306 NORTH MIAMI AVENUE • MIAMI, FLORIDA 33128 • (305) 374-6262

RICHARD F. WOLFSON
SENIOR VICE-PRESIDENT

October 26, 1967

Sidney Pepper, Esq.,
DeWitt, Pepper & Howell
120 Broadway
New York, N.Y. 10005

Dear Sidney:

It was very good meeting you, and perhaps something constructive could result. There is some additional information I would like about Modern Talking Picture Service, Inc., which I would appreciate your furnishing at your convenience.

1) As you realize, I am sure, discontinuance of the present Profit Sharing Trust would have only a 50% benefit to the Company, since those funds would now be taxable. Further offsetting and perhaps more than offsetting this discontinued expense would be the cost of the Wometco fringe benefits, including our pension plan, which would be applicable to the employees of Modern. In order to determine this cost I need the total salary expense for a year of Modern.

2) A resume of the background of the present management, including ages, education, experience, etc.

3) The total print cost of the company, including what the company now pays laboratories per foot separately for printing both color and for black-and-white film.

4) A statement of the Profit-Sharing Trust, including the beneficiaries. We are quite concerned about the effects on employee morale that discontinuance will have.

cont'd.....

RECEIVED
OCT 30 1967
DeWITT PEPPER & HOWELL

5) A more detailed profit-and-loss statement for the fiscal year ending June 30, 1967 and any information you may have for the 1st quarter of the new fiscal year.

I am enclosing under separate cover some materials about Wometco.

Sincerely yours,

Richard F. Wolfson,
Senior Vice President

cc: Steve Weil
Mitchell Wolfson
Louis Wolfson II

Dear Sidney Pepper,
I will call you Tomorrow
on one aspect of This
matter.

Cross-Claimants' Ex. DD for id. 3/26/70 gb.

533a

October 31, 1967

Mr. Richard F. Wolfson, Senior Vice-President,
Wometco Enterprises, Inc.,
306 North Miami Avenue,
Miami, Florida 33128.

Dear Dick:

I have asked the company Treasurer to give me the data which you have requested in your letter of October 26, 1967. They tell me that the earliest they could get it out would be in a day or two.

Rather than have this delay I am going to answer your inquiries based upon approximations which, I have obtained from the Treasurer.

1. Salaries and wages totaled $485,779.00 for the year ended June 30, 1967. The total contribution to profit sharing was $172,808.00. I am informed that the approximate contribution to each employee's profit sharing account is 11% of salary, but this undoubtedly includes forfeitures and income on a fund of $1,200,000.00, as prorated to the profit sharing trust accounts.

2. Carl Lenz, the President, has been with the company since 1946 and was in the motion picture branch of the army during World War II. I believe he had audio-visual experience before that. He is in the low 50's and I am positive a college graduate, and a cultured gentleman. William Oard is No. 2 man and is a MIT graduate since the early 40's. He has been with the company since he graduated. I believe he graduated as an engineer. William MacCallum, whose title is Executive Vice President, is approximately 66 years of age and a graduate of MIT. He has been with the company and its predecessor since 1932. The Treasurer is George Vickers, who is a CPA, formerly with Main, Lafrentz & Company. The rest of the executives are, with one exception, not more than 45 years of age and all of them seem to me to be college graduates, many of whom had some law courses and nearly all habe been with the company an average of ten years. The one exception is a man whom I would say is in his late 50's and who has been with the company at least 20 years, to the best of my knowledge.

3. The total print cost of the company is $630,000.00,

which may include the cost of a few Fairchild 8 mm projectors. There is no account dealing with print costs and this is merely an approximation which is believed to be fairly correct. The blank and white prints cost 03.4¢ a foot and the color 4.5¢ a foot.

4. The profit sharing trust consists of approximately $1,200,000.00. It covers everyone in the company with the exception of part time help. I do not think that the discontinuance of the plan would have any serious effect on employee morale. The only employees who are really concerned about the continuance of the plan are the so-called key employees. The clerical help are merely interested in their take home and do not look forward to any windfalls or to permanent careers with the company. In fact, the elimination of the profit sharing trust might enable the company to be more competitive in the salaries that are paid to clerical help.

5. A more detailed profit and loss statement for the fiscal year ending June 30, 1967 and first quarter data on the new fiscal year are being sent to you directly by the company's Treasurer.

I apologize for not being able to give you more exact information, but your request came at what I am told is a very busy time for the company and I am told, that the overworked personnel could not respond promptly.

With kindest regards,

Very sincerely,

SP:9m

Cross-Claimants' Ex. for Trial. 3/22/72 cp

MTPS

535a



WOMETCO ENTERPRISES, INC.

306 NORTH MIAMI AVENUE • MIAMI, FLORIDA 33128 • (305) 374-6262

RICHARD F. WOLFSON
SENIOR VICE-PRESIDENT

November 4, 1967

Sidney Pepper, Esq.,
DeWitt, Pepper & Howell
120 Broadway
New York, N.Y. 10005

Dear Sidney:

Following our discussion, Mitchell and I called Mr. Carl Lenz. We have made a tentative appointment, subject to Mr. Lenz's confirmation, with Mr. Lenz to come to Miami on November 29th. In the meantime we will send one of our senior financial people to Modern Talking Picture Service, Inc. on November 21 to meet with Mr. George Vickers, the Treasurer.

Following our telephone conversation with Mr. Lenz, we telephoned Mr. Eberle, introduced ourselves and have sent him some further materials on Wometco Enterprises. We have also invited him to meet with us at his convenience.

I have also received this morning from Mr. Vickers profit and loss statements by division for the year ended June 30, 1967, and management statements of profit and loss for the quarter ended September 30, 1967.

Incidentally, Mr. Lenz informs us that current salaries are running at approximately two million dollars a year.

Sincerely yours,

Richard F. Wolfson
Senior Vice Preside

RECEIVED
NOV 6 1967
DeWITT PEPPER & HOWELL

cc: Mitchell Wolfson

Cross-Claimants'
Ex. QQQ for id
3/28/72 cp.

536a

WOMETCO ENTERPRISES, INC.
306 NORTH MIAMI AVENUE • MIAMI, FLORIDA 33128 • (305) 374-6262

RICHARD F. WOLFSON
SENIOR VICE-PRESIDENT

November 24, 1967

MTPS Corp

Sidney Pepper, Esq.,
120 Broadway
New York, N.Y. 10005

Dear Sidney:

I tried to reach you by telephone today but was unable to do so. Mr. Carl Lenz, although he and his staff were fully cooperative in giving information to Mr. Tom Fischer, our auditor, has advised Mr. Fischer that the matter of a sale or merger of Modern Talking Picture Service, Inc. must now be deferred for the time being. I am simply passing this information along to you.

If for any reason you wish to reach me on Monday or Tuesday, I will be in New York either at the Hotel Stanhope or at the offices of Mr. B. William Nimkin of

ndler, Phone:

Wolfson phoned 11/28/67 - will only pay on Basis of earnings

icerely yours,

chard F. Wolfson,
tor Vice President

Cross-Claimants'
Ex. 2222 for id.
537a 3/28/72 g

November 1, 1967

Mr. John Giannetti,
Bear, Stearns & Company,
1 Wall Street,
New York, New York.

Dear Mr. Giannetti:

Some time ago you came to my office to negotiate a possible purchase of Modern Talking Picture Service, Inc. and information was disclosed to you in confidence.

It has recently been called to my attention that your firm has been offering Modern Talking Picture Service, Inc. for sale to at least nine companies. You know that you have not been and are not authorized to do so.

I must ask you to have your firm discontinue promptly any efforts to sell Modern Talking Picture Service, Inc. If you do not, I will advise my clients to take appropriate action against you and your firm.

Very truly yours,

SP:cm

I have performed. 11/2/67
Ed Avery

Cross-Claimants' Ex. 000 for id 3/28/72 gf.

MTPS sale

538a

CHARLES F. McCANDLESS
P. O. BOX 204
PLEASANTVILLE, N. Y. 10570

November 13, 1967

Mr. Carl Lenz
President
Modern Talking Picture Service
1212 Sixth Avenue
New York, N. Y.

Dear Carl;

Since my return from Europe on November 2nd I tried to reach you several times, but you were busy. Now I understand that you will be away on business and will not be available soon.

You will recall that we left it that you wished to put other possibilities aside pending evaluation of your other alternatives. I have determined that there has been no further discussions with Times Mirror and it appears that there is a lack of mutual interest.

Recently I have contacted two other companies who have a definite interest in both product and marketing diversification. The companies are large concerns and both are listed on the major exchanges.

One of the contacts has expressed some interest in the educational film field and there could be compatability of operations. But I was able to give them only sketchy information about your historical sales and net profits, and particularly any trend data.

I did speak to Sidney Pepper about this subject in your absence and he informed me that your gross income in the most recent fiscal year was about $ 7,000,000 and after tax profits were slightly over $200,000. He did mention that the profit figure was low due to additional expense in moving and this figure was not necessarily indicative of future proppects.

The company in question is sufficiently interested to consider exploratory discussions, provided they had some definitive income and profit figures on which to base a preliminary judgement.

CHARLES F. McCANDLESS
P. O. BOX 204
PLEASANTVILLE, N. Y. 10570

Mr. Carl Lenz -2- November 18, 1967

I wish to make it clear at this time that this company, or any other company I know, would not enter into any discussions with an implied offer of 15-20-25 or any other multiple of your after tax earnings. The price would depend upon many factors, including continuation of management and a liberal incentive plan for all key employees.

I do feel that the company would make a fair and reasonable offer which could be attractive to both the stockholders and management. For my part I would recommend to them a formula based on a minimum of 15 times some historical earnings base, ~~xxxx~~ plus some payout arrangement for additional consideration based on future earnings.

At an early date I would like to meet with you and possibly Sidney Pepper and Bill MacCallum to identify the company, to secure what financial data that is needed, and to discuss in more specific terms your objectives and desires. To my knowledge the company in question has not discussed this subject with any officials or stockholders of Modern, although I believe Frank Arlinghaus and I discussed this company generally back in 1963.

In conclusion I wish to state that in the event you should consummate an acquisition or merger with this particular company I would look to them for my finder's or brokers fee.

Very truly yours,

C F McCandless

C. F. McCandless

CFM/slm

CC- Mr. Sidney Pepper
120 Broadway
New York, N. Y.

DIVERSIFICATION
PLANNING

AR 3-3384
AR 3-3164
Code 914

Cross-Examination
Rep. Ex for id. 540a
3/22/72 Jeff

KMS INDUSTRIES, INC. 220 E. HURON ST.
ANN ARBOR, MICHIGAN 48106 (313) 761-3421

9 February 1968

Mr. Sidney Pepper
120 Broadway
Room 2820
New York 5, New York

Dear Mr. Pepper:

We have been advised that the shareholders and management of Modern Talking Picture Service, Inc., have been considering the possibility of sale or merger. We are familiar with your company and your financial performance over the past ten years. We understand that you earned $200,000 after taxes on sales of $6,900,000 for the year ended 6-30-67. We feel a tax free merger of our two concerns would be of great benefit to both. Consequently I am making the following offer to Modern Talking Picture Service, Inc., subject to the approval of both boards and your shareholders.

1. KMS would issue to MTPS shareholders 40,000 shares of a $100 stated value convertible preferred stock.

2. The convertible preferred stock would be convertible at any time to KMS common stock at a price that on the closing date would make the value of the KMS common stock no less than $4 million.

3. The preferred stock would carry a dividend rate of $3 per share for the first and second years, $4 in the third year and $5 thereafter.

4. The preferred stock would be non-callable by KMS for a period of five years and callable at $100 per share thereafter.

5. The preferred stock could be sold to KMS by the holder thereof on two months notice

a) at $80 per share from the third to the fourth year from the closing date;

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DeWITT PEPPER & HOWELL

b) at $90 per share from the fourth to the fifth yea from the closing date;

c) at $100 per share thereafter.

6. Our attorneys believe this combination would be considered a tax free reorganization.

We are a young company with a strong commitment to the education and communication market. I feel that by this proposal we could offer you the following advantages:

a) We are a highly technical communications-oriented company and feel it would be excellent compatibility of our mutual corporate goals.

b) We are of a size such that your excellent company should be a significant part of our operation and have an immediate impact on our growth.

c) In addition to the above security, your shareholders would receive the right to participate in the growth of KMS common stock.

. . .

We are determined to become a significant factor in the communications market and would hope that you could join us.

For your information I enclose a copy of our Capabilities and Talent brochure, a copy of a talk which was reprinted last Monday in The Wall Street Transcript and some of our product literature.

If your shareholders would be favorably disposed toward our offer, I would like to meet with management at their earliest convenience to seek their approval for this proposal.

Sincerely,

Keeve M. Siegel

Keeve M. Siegel
Chairman

KMS:mf

Encs.

Same letter to: Mrs. Frank Arlinghaus, Mr. Clemens Arlinghaus, Mr. W. H. MacCallum, Mr. H. Eberle, Mr. W. Card, Mr. C. Lenn, Mr. Cox and Mr. Lang

Cross-Examination
Ex. DJ for ID.
3/22/72 jp.

542a

MODERN

MODERN TALKING PICTURE SERVICE, INC. • 1717 N. HIGHLAND AVENUE • LOS ANGELES, CALIF. 90028
213 HOllywood 2-2201

February 16, 1968

Mr. Keeve M. Siegel
Chairman
KMS Industries, Inc.
220 E. Huron Street
Ann Arbor, Michigan 48106

COPY

Dear Mr. Siegel:

This will acknowledge receipt of your letter of February 9, 1968 in which you made an offer to Modern Talking Picture Service.

In order to decide on the desirability of your proposal I would like to have the answers to a few questions:

1. Do you have a financial statement available which would show your gross revenue, net profit and financial structure?

2. What is the value per share of the KMS common stock and what is its market? Has it been offered to the public?

3. I presume that the convertible preferred stock to which you refer would be a new issue. What would be its market?

4. In what ways do you foresee mutual advantage in the merger of our two Companys?

It is my opinion that a successful merger should have at least a reasonable amount of synergism. KMS Industries seems to be specializing in highly sophisticated hardware and the background of your officers and personnel is indeed impressive. On the other hand, Modern Talking Picture Service is an expert distributor of program educational material, or software.

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FEB 19 1968

DONELSON PEPPER & HOWELL

I think the main question is to resolve whether or not these fit together even if the financial arrangements seem favorable.

Yours very truly,

William H. MacCallum
Executive Vice President

WHM:bh

Copies of letter to:
Mrs. Frank Arlinghaus, Mr. Clemens Arlinghaus, Mr. Sidney Pepper, Mr. H. Eberle, Mr. W. Oard, Mr. Cox, Mr. C. Lenz and Mr. Lang

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3/25/70 cys.

INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION

320 PARK AVENUE

NEW YORK, N.Y. 10022

February 16, 1968

Sidney Pepper, Esq.
120 Broadway
New York, New York

Dear Mr. Pepper:

I am pleased to enclose information on Warner Seven Arts which I believe will give you background on the company.

I spoke with Eliot Hyman this afternoon and his reaction to my comments was about what we both might expect. It is very difficult for him to put any kind of multiple on a company, the earnings and growth record of which are not known to him. I am sure you would be in agreement that this is sound business judgment. However, I can tell you that they are very flexible in terms of cash and/or stock packages. I do know that there have been acquisitions varying from four times earnings to ten times earnings and they have often used a formula based on future earnings.

Not that I am trying to master mind your deal. Very much to the contrary. It is rather standard practice that the conglomerate type of company works on a ten times earnings base, figuring that it is going to sell at a higher multiple and thus leverages its earnings with each acquisition. I would prefer that the acquiring company be one where I can see hard dollars ahead in earnings. This kind of improvement produces per share prices that "stick to the ribs". It is the old story of getting married for keeps and one is better off taking a little stability with one's growth rather than a lot of glamour.

May I suggest that I arrange for you to sit down and chat with Eliot who tells me that he had the pleasure of meeting you once before some years ago.

Very truly yours,

Philip L. Lowe

PLL:fi
Encl.

P.S. You have asked me to clarify that I am not acting as an agent here and will not be looking to Modern for a commission. I am pleased to affirm this.

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Ex. YYYY for id
3/28/72 cps.

545a

February 21, 1968

Mr. Philip L. Lowe,
International Telephone and
Telegraph Corporation,
320 Park Avenue,
New York, New York.

Dear Mr. Lowe:

I have your letter of February 16, 1968 and the report of Warner Seven Arts.

I shall be glad to meet with Eliot Hyman and you at our mutual convenience to look into the matter.

Very truly yours,

SP:cm

Cross-Claimants'
Ex. XXXX for Id
3/28/72 gs.

February 21, 1968

Mr. Carl H. Lenz, President,
Modern Talking Picture Service, Inc.,
1212 Avenue of the Americas,
New York, New York.

Dear Carl:

I enclose a photocopy of a letter I have received from Mr. Lowe and a copy of my reply.

After studying the annual report, I can see considerable risk for the shareholders if any deal were to be a stock deal.

You will note the reference to acquisitions from four times earnings to ten times earnings, which does not seem to hold out any great inducement.

Very sincerely,

SP:cm
enclosures

Cross-Claimants'
Ex. FF for id.
3/28/72 ep.

5470

LAIRD
INDUSTRIES, INC.

March 19, 1968

Sidney Pepper, Esq.
DeWitt, Pepper and Howell
120 Broadway
New York, New York

Re: MODERN TALKING PICTURE SERVICE, INC.

Dear Mr. Pepper:

This letter is intended to reduce to writing a general understanding reached by the undersigned, Laird Industries, Inc., a Delaware corporation ("Industries"), and yourself on behalf of certain shareholders of Modern Talking Picture Service, Inc. ("Modern").

It is not the intention of the undersigned parties that this letter will constitute a binding agreement. The parties contemplate that formal binding agreements will be prepared and executed in due course.

(A) Industries will undertake to pay a total purchase price of $2,500,000 for all of the common stock of Modern. In the event that any of the stockholders of Modern are unwilling to sell their stock to Industries, the sale of Modern shall be consummated as an asset transaction.

(B) Industries will undertake to pay said purchase price as follows:

(i) $750,000 in cash, and

(ii) a promissory note in the principal amount of $1,750,000 bearing interest at the rate of 7% per annum on the unpaid principal balance thereof. The principal to be payable in five equal annual installments, the first installment to be due one year from the date of the closing of the above acquisition.

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DeWITT PEPPER & HOWELL

It is the intention of Industries to continue and expand the activities in the educational and audio-visual fields.

If the above accurately outlines the proposal as we discussed it, please indicate your approval and acceptance by signing below.

Very truly yours,
LAIRD INDUSTRIES, INC.

By Vernon A. Tait
Vernon A. Tait, President

ACCEPTED AND APPROVED:

Sidney Pepper, Representative
of certain shareholders of
Modern Talking Picture
Service, Inc.

VAT:hp

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NLTP5

March 28, 1968

Mrs. Frank H. Arlinghaus,
Windmill Lane,
Rumson, New Jersey.

Dear Rosalie:

I enclose a copy of my letter to George Vickers of day on the tax data for the estate and the custodian accounts. As requested by you the three custodian books of the children are enclosed.

Mr. Sonderling would like to meet with you for lunch on Thursday, but after talking to you we have changed the appointment to Friday, April 5th, at the Oak Room at the Plaza. I trust this will be agreeable to you.

With kindest regards,

Very sincerely,

SP:cm
enclosures

Cross-Claimants'
Ex. 6-9's for id.
- 5503/30/73 jf

FIRST NATIONAL CITY BANK

WILLIAM G. HERBSTER
VICE PRESIDENT

399 PARK AVENUE, NEW YORK, N. Y. 10022

March 29, 1968

Mr. Sidney Pepper
DeWitt, Pepper & Howell
120 Broad Street
New York, N. Y. 10004

Dear Mr. Pepper:

This will confirm our telephone conversation in which I outlined to you our Bank's experience with and regard for Sonderling Broadcasting Corporation and particularly its chief executive officer, Mr. Egmont Sonderling. We have been doing business with Sonderling Broadcasting Corporation and its predecessor companies since January of 1964. From time to time, we have extended substantial loans to the corporation and its subsidiaries and our dealings with them both in the handling of these loans as well as in other transactions have always been completely satisfactory.

At present we have a $5,000,000 interim loan which is secured by the outstanding shares of stock of their Louisville television station. This loan represents interim financing by Sonderling Broadcasting until such time as the company takes down a long-term loan which has already been committed to by two insurance companies.

While as commercial bankers we are in no position to advise you as to the relative attractiveness of Sonderling Broadcasting stock as an investment, let me assure you that, based on our experience and its earnings history, the company is financially sound and well managed.

If you have any other questions, we would be more than pleased to be helpful.

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DeWITT PEPPER & HOWELL

Sincerely yours,

William G. Herbster

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STATE MUTUAL LIFE ASSURANCE COMPANY OF AMERICA

FOUNDED 1944

WORCESTER · MASSACHUSETTS

April 2, 1968

Mr. Sidney Pepper
DeWitt, Pepper & Howell
120 Broadway
New York, New York 10005

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DeWITT PEPPER & HOWELL

Dear Mr. Pepper:

Mr. Egmont Sonderling has asked me to write you regarding State Mutual's relationship with Sonderling Broadcasting Corporation.

We were introduced to the Company in January, 1965 through Bear, Stearns & Company, who were acting as Sonderling's investment bankers. At that time, they wished a loan of $2,500,000, a portion of which was to be used to pay off bank borrowings incurred for the purchase of radio station WWRL in New York City and the remainder to be taken down when they purchased another station.

During the period of our investigation and negotiations, Sonderling completed negotiations for the purchase of radio station WOL in Washington, D. C.

We were favorably impressed by Mr. Sonderling, his record, and the profit potential of his company, so we purchased a $2,500,000 6% note due in 12 years at that time. Our initial confidence in this situation has proven to be amply justified. Sonderling turned both WWRL and WOL, both money losers, into highly profitable operations in a remarkably short period of time. His company has turned in an excellent earnings performance, as you have probably seen from reading their recent prospectus.

In July of this year, we will increase our loan to Sonderling Broadcasting from $2.5 million to $4.0 million. Another institutional investor has committed $4.0 million in addition. The $5.5 million will be used to fund a portion of the price paid for the recently acquired TV Station in Louisville, Ky.

We have found Mr. Sonderling to be conservative in his business outlook but highly profit orientated. He makes a very comprehensive analysis of prospective acquisitions before committing his company. He does not take the risks inherent in any acquisition without convincing himself that the expected rewards are more than commensurate. He is an individual of the highest integrity, and abides by all of the provisions of our loan agreement.

Mr. Sidney Pepper April 2, 1968

The only major weakness we were aware of in Sonderling Broadcasting was the absence of strong backup management. Each of his station managers is fully competent to run the affairs of the station, but none has the capacity to step into Mr. Sonderling's shoes. The addition of Mr. Allen Henry to management in 1967 has probably alleviated the problem somewhat, although I must admit that in my opinion top management is still thin. The presence of two representatives of Bear, Stearns & Company on Sonderling's Board has been very helpful to the Company in this regard however, particularly in the areas of financial planning and control, and evaluation of acquisitions.

Perhaps the best indication of our confidence in the future of this company is the fact that in addition to a $4.0 million loan (a large commitment for State Mutual), we are one of their largest stockholders.

Please do not hesitate to call if I can be of any further assistance.

Very truly yours,

Donald R. Calabro
Security Analyst

DRC:sv

Cross-Claimants'
Ex. TTTT for id
3/20/72 cfs.

Exhibit
553a

AGREEMENT dated as of May 1968, between SONDERLING BROADCASTING CORPORATION, an Illinois corporation (hereinafter called SBC), and MODERN TALKING PICTURE SERVICE, INC., a Delaware corporation (hereinafter called Modern).

WHEREAS, Modern desires to sell and SBC desires to purchase substantially all of Modern's properties upon the terms hereinafter provided,

NOW, THEREFORE, the parties hereto agree as follows:

1. Transfer of Assets. (a) Upon the terms and subject to the conditions set forth in this Agreement, Modern agrees at the Closing (as hereinafter defined) to sell, convey, assign, transfer and deliver to SBC, and SBC agrees to purchase and accept from Modern all the assets, properties, goodwill and business of Modern as a going concern (except the assets referred to in Section 1(b)), together with such additions thereto as shall occur from the date hereof to the Closing Date (as hereinafter defined), and the right to use the name "Modern Talking Picture Service, Inc." or similar names (said assets and rights being hereinafter called the Acquired Assets).

(b) Anything hereinabove to the contrary notwithstanding, the following assets and properties shall be retained by Modern:

(i) Cash not in excess of $10,000 in such amount as may be agreed upon by Modern and SBC to cover Modern's tax and other expenses in connection with its performance of this Agreement and its liquidation and dissolution. Modern shall promptly pay over to SBC, not later than December 31, 1968, such cash which Modern does not expend in payment of such expenses.

(ii) The minute books, stock books and corporate seal of Modern, provided that upon the dissolution of Modern, Modern shall deliver to SBC, as custodian, the corporate records and seal retained by Modern as provided in this Section 1(b)(ii). Such books and records shall be available to Modern and its representatives for use in connection with tax matters and the liquidation of Modern and Modern shall have the right to borrow such documents and to make copies thereof for presentation in any

litigation or proceeding in which Modern may be involved. Such books and records shall be preserved by SBC for at least six years after the Closing.

(iii) Modern's rights under this Agreement and the cash payable upon the Closing.

2. Consideration. (a) In consideration of the sale, assignment, transfer and delivery of Modern's assets to SBC as provided herein, SBC shall at the Closing pay as hereinafter provided $2,8000,000.

3. Assumption of Liabilities. (a) At the Closing SBC shall assume and agree to pay, perform and discharge:

(i) All the debts, liabilities, obligations contracts and commitments of Modern as of the close of business on the Closing Date and under its Profit Sharing Plan to such date,

(ii) All the federal, state and municipal tax liabilities of Modern except for such transactions occurring after the Closing Date not referred to in Section 4(b) hereof.

(b) Notwithstanding the foregoing, SBC shall not assume or be obligated to pay, perform or discharge:

(i) Liabilities or obligations of Modern to make distributions to its stockholders as dividends in liquidation or otherwise;

(ii) Liabilities and obligations of Modern under or with respect to any transaction occurring after the Closing Date except as herein or otherwise agreed in writing between the parties;

(iii) Liabilities and obligations of Modern incurred in connection with or related to the transfer of assets and business of Modern pursuant to this Agreement, or in connection with Modern's liquidation and dissolution, except that SBC shall pay any and all sales and use taxes in connection with the said transfer.

(c) Nothing contained in Section 3 shall relieve Modern from any obligation under covenants, warranties or agreements contained in this Agreement.

4. The Closing, Etc. (a) Consummation of the transfer and acquisition of the assets hereunder shall constitute the Closing and the place, date and time of the Closing shall be at the offices of The Corporation Trust Company, 15 Exchange Place, Jersey City, New Jersey, at 2 p.m. on the 14th day of May, 1968, or at such time and place as Modern and SBC may mutually agree (said time and place of Closing are herein called the Closing Date).

(b) At the Closing Modern will execute and deliver to SBC proper instruments of assignment, conveyance and transfer, in the form approved by counsel for SBC of all its right, title and interest in and to all of the Acquired Assets, except for such Acquired Assets as to which SBC shall request a delay in the assignment thereof. Such assets are hereinafter referred to as "Delayed Assets". An assignment of the Delayed Assets shall be made by Modern to SBC within 10 days after a written request therefor and at Modern's sole option by December 31, 1968. SBC shall hold Modern harmless from any and all liability and taxes in connection with such Delayed Assets.

(c) At the Closing SBC will issue and deliver to Modern a bank cashier's or a certified check for $2,800,000.00 payable in New York, New York, funds to the order of DeWitt, Pepper & Howell, attorneys, for deposit

in a Special Attorney account at the Chase Manhattan Bank or the Chemical Bank New York Trust Company in the name of DeWitt, Pepper & Howell, Attorneys. The then officers of Modern shall cause $100,000.00 of the said amount to be paid to Commonwealth Corporate Development Co., Inc. and $50,000.00 of the said amount to Sidney Pepper, counsel and a director of Modern, and $1,250,000.00 shall be paid pro rata to the shareholders of Modern as soon as possible after the surrender to Modern in care of DeWitt, Pepper & Howell, of their certificates for stock of Modern. Such surrender of their certificates shall be without prejudice to their respective rights to receive their pro rata shares of the balance of $1,250,000. and interest thereon as hereinafter provided. Of the said moneys paid to DeWitt, Pepper & Howell, attorneys, by SBC as aforesaid, $1,400,000.00 shall be used to acquire a certificate of deposit from the Chase Manhattan Bank or another New York bank payable January 2, 1969 at the said bank. SBC's claims, if any, for a breach of any warranty herein shall be limited to the amount of the said certificate of deposit and shall be asserted, if at all, not later than six months after the closing herein by written notice thereof to Modern. If not asserted, such claim shall be deemed barred and released. If asserted and not resolved by the parties within thirty days thereafter, such claim or claims shall be submitted promptly to arbitration under the rules of the American Arbitration Association, New York, New York, whose decision shall be binding upon both parties. From

the moneys represented by the proceeds of the certificate of deposit and the interest payable thereon an amount to the extent needed to satisfy any such claim of SBC as agreed to by the parties or as resolved by arbitration as aforesaid shall be paid to SBC as soon as possible after January 2, 1969. The balance shall be paid to Modern's stockholders and Commonwealth Corporate Development Co., Inc. and Sidney Pepper in the proportions as hereinbefore stated in this section.

(d) As soon after the Closing Date as is reasonably possible Modern will change its name to such other dissimilar name as will permit SBC to use the name of Modern or to use a subsidiary having the name of Modern, or a name similar thereto to carry on the business of Modern and to qualify such subsidiary in all states in which Modern is engaged in business and Modern will, in connection therewith, execute such consents to said use or incorporation, or qualification as may, in the opinion of counsel of SBC, be necessary or expedient.

(e) Modern at the request of SBC will delay its dissolution to December 31, 1968 pending a transfer of the Delayed Assets to SBC. Pending such transfer any income and expense in connection with such Delayed Assets

shall be the income and expense of SBC. Modern shall not be obligated to perform any services in connection with such Delayed Assets and its liability in connection therewith shall be limited to turning over to SBC whatever it may receive on account of such Delayed Assets. The cost of the preparation and filing of any tax returns for Modern required by reason of the receipt or accrual of any receipts from the Delayed Assets shall be borne by SBC.

5. Representations and Warranties of Modern. Modern represents, warrants and agrees as follows:

(a) Organization and Qualification of Modern. Modern is a corporation duly organized, validly existing and in good standing under the laws of Delaware and is duly qualified as a foreign corporation in the states listed in Schedule A, attached hereto. Modern has the corporate power and is entitled to carry on its business and to lease and operate its properties in the places where such places of business are now conducted and such properties are now leased and operated.

(b) Subsidiaries. Modern has one wholly-owned subsidiary, T.V. Movie News, Inc., a New York corporation (hereinafter called T.V.M.N.), an inactive corporation. Modern owns all the issued and outstanding stock of T.V.M.N. free and clear of all liens, charges or encumbrances of

any nature whatsoever. There are no outstanding warrants, options or other commitments relating to the authorized and unissued or to the issued shares of T.V.M.N.

(b) Capital Stock. The authorized capital stock of Modern consists of 500,000 shares of Common Stock, $1 par value. There are presently issued and outstanding 94,500 shares of such Common Stock, all of which are duly and validly issued, fully paid and nonassessable. Modern holds no shares of its Common Stock in its treasury. There are no outstanding warrants, options or other commitments relating to the authorized and unissued shares of such Common Stock.

(c) Financial Statements. The balance sheet of Modern as of June 30, 1967 and the statement of income for the year ended on that date, heretofore delivered to SBC, have been certified by Main Lafrentz and Company, independent public accounts. They are believed to have been prepared in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year and to fairly represent the results of operation for such period in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

(e) Real Property. Attached hereto as Shedule B is a brief description of all real property leased to Modern. Modern has valid and enforceable leases not in default with respect to the premises purported to be leased by it, free and clear of all mortgages. Modern does not own and has not contracted to purchase or acquire any real estate or any interest therein other than as lessee as set set forth in Schedule B.

(f) Personal Property. Modern owns or leases all the personal property reflected in its balance sheet at June 30, 1967, free and clear of all mortgages. The equipment owned or leased by Modern is in operating condition and repair.

(g) Patents. Modern owns or possesses adequate licenses or rights to use, all patents, trade secrets, trade-marks, trade names or copyrights necessary to conduct its business as now operated.

(h) Contracts and Commitments. Except as set forth in Schedules B, C and D attached hereto, Modern is not a party to any written or oral, express or implied (i) contract or commitment for the employment of any officer or employee, (ii) contract or commitment to any labor union, (iii) insurance policy, (iv) lease under which it is lessor, except for a sublease to its landlords

at 1212 Avenue of the Americas of the 22nd floor of that building for a term ending July 31, 1970, or (v) material contract or commitment not made in the ordinary course of business.

(i) Litigation. There are no actions, suits or proceedings (whether or not purportedly on behalf of Modern) pending, which involve the likelihood of any adverse judgment or liability not fully covered by insurance or which may result in any material adverse change in the business, properties or assets or in the condition, financial or otherwise, of Modern. Except for an action brought by Richard M. Hough in the Court of Chancery of the State of Delaware against Modern, SBC and others, Modern does not know of any order, writ, injunction or decree that has been issued by, or requested of, any court or governmental agency which does or may result in any material adverse change in its business, properties or assets or in its condition, financial or otherwise.

(j) Taxes. The amounts set up as provisions for taxes on the balance sheet of Modern as of June 30, 1967, are believed to be sufficient for the payment of all unpaid federal and state taxes of Modern, applicable to the period ended on such balance sheet date. There may be unaccrued sales, use and personal property taxes in an amount estimated to be not more than $10,000. Modern has

filed all income tax returns required to be filed by it by the United States of America and has paid all taxes which have become due pursuant to such returns and pursuant to any assessment which has been received by it. Federal income tax returns of Modern have been examined by the Internal Revenue Service through the fiscal year ended June 30, 1965, and all deficiencies, if any, proposed as a result of such examination have been paid or settled.

(k) Compliance with Law. To the best of the knowledge and belief of Modern it has complied in all material respects with all laws, regulations and orders applicable to its business in the jurisdictions in which it has offices.

(l) Insurance. The business properties and assets of Modern of an insurable nature are insured in the amounts and against the risks normally insured against by companies engaged in a business similar to that of Modern, as set forth in Schedule D attached hereto.

(m) Accounts Receivable. All accounts receivable of Modern are current and collectible to the best of its knowledge, except to the extent that a reserve for bad debts, not in excess of $10,000, has been established therefor.

(n) No Default. The execution and delivery of this Agreement and compliance with the terms hereof by Modern will not conflict with, or result in the breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation of any lien, charge or encumbrance upon, any of the properties or assets of Modern pursuant to any corporate charter, by-law, indenture, mortgage or lease, to which Modern is a party or by which it is bound, except for such acquired assets which can only be assigned with consent.

(o) Performance of Obligations. Modern, to the best of its knowledge, has in all respects performed all obligations required to be performed by it to date and is not in default in any respect under any contracts, agreements, leases or other instruments to which it is a party or by which it is bound. True and correct copies of all such documents described in any schedule attached hereto have heretofore been made available to SBC.

(p) Post Balance Sheet Changes. Since June 30, 1967, Modern has not (i) issued any stock, bonds, or other corporate securities, (ii) incurred any obligations or liability (absolute or contingent) except to the Chase Manhattan Bank, and in connection with an authorized bid for the Chem study films, other than

current liabilities incurred, and obligations under contracts entered into, in the ordinary course of business, (iii) declared or made any payment or distribution to stockholders, except for dividends not in excess of a total of $.33 per share, or purchased or redeemed any shares of its capital stock (iv) mortgaged, pledged or subjected to any other encumbrance its assets, tangible or intangible, other than the lien of current personal property taxes not yet due and payable, (v) sold assigned or transferred any of its assets or cancelled any debts or claims, other than in the ordinary course of business, (vi) suffered any extraordinary losses or waived any rights of substantial value, whether or not in the ordinary course of business, or (vii) entered into any transactions other than in the ordinary course of business.

(q) Execution. The execution and delivery of this Agreement and the transfer of assets of Modern contemplated hereby has been duly and validly authorized by the Board of Directors of Modern, except as may be otherwise determined in the aforesaid Hough action.

(r) Representations and Warranties. The representations and warranties made in this Section 5 will be true and correct in all material respects on and as of the Closing Date with the same force and effect as though such representations and warranties had been made on the Closing Date.

6. Representations and Warranties of SBC. SBC represents, warrants and agrees as follows:

(a) Execution. The Board of Directors of SBC has duly authorized the execution and delivery by the proper officers of SBC of this Agreement and the performance by SBC of all the acts and transactions contemplated hereby.

7. Covenants of Modern. Modern covenants and agrees as follows:

(a) Modern has procured the written consent of a majority of its stockholders in the form of Exhibit E attached hereto.

(b) From the date of this Agreement and until the Closing Date Modern will conduct its business in substantially the same manner as heretofore conducted.

(c) From the date hereof through the Closing Date, Modern will not (i) incur any obligation or liability (absolute or contingent), except current liabilities incurred, and obligations under contracts entered into, in the ordinary course of business; (ii) mortgage, pledge or voluntarily subject any assets, tangible or intangible to liens except those of taxes, (iii) sell or transfer any of its tangible assets except in each case in the ordinary

course of business; (v) waive any right of any substantial value; or (vi) enter into any transaction or series of transactions other than in the ordinary course of business, except in each case as allowed by this Agreement or with the prior written consent of SBC and except further that Modern may pay to its Profit Sharing Trust the amount it is obligated to pay under its Profit Sharing Plan with respect to its earnings for the period since July 1, 1967.

(d) All income, franchise, sales and other tax returns and reports of Modern of the kind and for the jurisdictions which have been heretofore filed and which may be due prior to the date hereof (including those relating to periods after the Closing date) shall be prepared by Modern, but shall not be filed without prior examination and approval of SBC's counsel, which approval shall not be unreasonably withheld. If such returns are not filed because of SBC's refusal to approve them, SBC shall hold Modern and its stockholders and distributees harmless from all proceedings brought by tax authorities.

8. Conditions to Obligations of SBC. The obligations of SBC hereunder are, at the option of SBC, subject to the conditions that at the Closing Date:

(a) All the terms, covenants and conditions

to be complied with or performed by Modern on or before the Closing Date shall have been fully complied with or performed in all material respects.

(b) The representations and warranties made by Modern herein shall be correct in all material respects, on and as of the Closing Date, and Modern shall have caused to be delivered to SBC a certificate to that effect dated the Closing Date and signed by Modern.

(c) All actions, proceedings, instruments and documents required to carry out this Agreement by Modern or incident thereto, and all other related matters, shall have been approved by counsel for SBC.

(d) SBC shall have received the opinion of Messrs. DeWitt, Pepper and Howell, counsel for Modern, dated the Closing Date, in form and substance satisfactory to SBC's counsel, to the effect that: (i) Modern is a corporation duly organized and validly existing under the laws of the State of Delaware, (ii) all corporate proceedings required to be taken by or on the part of Modern to authorize it to carry out this Agreement and to convey, assign, transfer and deliver to SBC the Acquired Assets which it may properly assign in accordance with this Agreement have been duly and properly taken,

(iii) this Agreement has been duly executed by Modern and is a legal, valid and binding obligation of Modern in accordance with its terms, and (iv) the instruments delivered by Modern to SBC have been duly authorized, executed and delivered, are legal, valid and binding in accordance with their terms, and sufficient for purposes of recordation and filing where permitted by law.

9. Conditions to Obligations of Modern. The obligations of Modern hereunder are, at the option of Modern, subject to the conditions that, at the Closing Date:

(a) All the terms, covenants and conditions of this Agreement to be complied with or performed by SBC on or before the Closing Date shall have been fully complied with or performed in all material respects.

(b) The representations and warranties made by SBC herein shall be correct in all material respects, on and as of the Closing Date, with the same force and effect as though such representations and warranties had been made on the Closing Date and SBC shall have caused to be delivered to Modern a certificate to that effect dated the Closing Date and signed by SBC.

(c) Modern shall have received an

opinion of Messrs. Becker & Silberberg, counsel for SBC, dated the Closing Date, in form and substance satisfactory to Modern's counsel, to the effect that (i) SBC is a corporation duly organized, validly existing and in good standing under the laws of the State of Illinois; (ii) SBC has full power to acquire the assets as provided herein, (iii) all corporate and other proceedings required to be taken by or on the part of SBC to authorize it to carry out this Agreement and to execute it have been duly and properly taken, and (iv) this Agreement has been duly executed by SBC and is a legal, valid and binding obligation of SBC in accordance with its terms.

10. Conditions to the Respective Obligations of SBC and Modern. The respective obligations of SBC and Modern are, at the option of SBC and Modern, respectively, subject to the further condition that:

(a) No action or proceeding shall be pending or threatened on the Closing Date wherein an unfavorable judgment decree or order would prevent or make unlawful the carrying out of this Agreement or would cause the transaction contemplated by this Agreement to be rescinded or would require SBC to divest itself of any of the business or assets of Modern.

(b) The Closing hereunder shall have occurred on or prior to May 14, 1968.

11. Access to Premises. Between the date hereof and the Closing Date Modern will afford the officers and authorized representatives of SBC free and full access to the premises, properties, books and records of Modern in order that SBC may have full opportunity to make such investigations as it shall desire.

12. Expenses; Finders' Fees. Except as otherwise provided herein, SBC and Modern shall each pay its own expenses in connection with this Agreement and the transactions contemplated hereby. The brokerage fees of Corporate Finders & Consultants, Inc. will be paid by SBC. SBC agrees to indemnify Modern against any claims of third parties for brokerage commissions or finders' fees in connection with the transactions contemplated hereby insofar as such claims are alleged to be based on arrangements or agreements made by SBC, and Modern agrees to indemnify SBC against any such claims insofar as they are alleged to be based on arrangements or agreements by Modern or its stockholders.

13. Survival of Representations. The covenants, representations and warranties contained in this Agreement shall survive the Closing hereunder.

14. Miscellaneous. (a) The parties may, by written agreement, (i) extend the time for the performance of any of the obligations or other acts of the parties hereto, (ii) waive any inaccuracies in the representations contained in this Agreement or in any document delivered pursuant to this Agreement, and (iii) waive compliance with or modify any of the covenants contained in this Agreement and waive or modify performance of any of the obligations of either of the parties hereto. Any agreement on the part of either party for any such extension, modification or waiver shall be validly and sufficiently authorized for the purposes of this Agreement, if authorized by the President or a Vice President of such party.

(b) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, provided, this Agreement shall not be assigned by SBC, except to a wholly-owned subsidiary. In the event of an assignment by SBC of any of its rights hereunder to a wholly-owned subsidiary of SBC, the fulfillment by such subsidiary of the conditions to Modern's obligations hereunder shall satisfy such conditions, but shall not relieve SBC from its executory undertakings herein.

(c) All notices, consents, requests, instructions, approvals and other communications provid-

for herein shall be validly given, made or served, if in writing and delivered personally or sent by registered mail, postage prepaid, if to Modern, addressed to Modern, c/o of Messrs. DeWitt, Pepper & Howell, 120 Broadway, New York, New York 10005, and if to SBC, attention Mr. Egmont Sonderling, 666 East Ocean Boulevard, Long Beach, California, 90802, and to A. Harry Becker, Esq., 1001 Pennsylvania Building, Washington, D.C. 20004.

(d) This instrument and the exhibits annexed hereto and made a part hereof contain the entire agreement between the parties hereto with respect to the sale and purchase of the Acquired Assets and the other transactions contemplated herein, supersede all prior agreements or understandings between the parties hereto relating to the subject matter hereof and shall be governed by the law of the State of New York.

(e) This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and their

respective corporate seals to be affixed hereto, all as of the day and year first above written.

SONDERLING BROADCASTING CORPORATION

[Corporate Seal]

ATTEST:

By_____
Egmont Sonderling
President

_____
A. Harry Becker
Assistant Secretary

MODERN TALKING PICTURE SERVICE, INC.

[Corporate Seal]

ATTEST:

By Howard E. Eberle
Howard E. Eberle
Vice President

_____
Edmund H. Cox
Assistant Secretary

SCHEDULE A

ADDRESSES AND MANAGERS OF MODERN TALKING PICTURE SERVICE FILM LIBRARIES

576a

Anchorage, Alaska 99501
c/o Pictures Inc — 279-1515
811 8th Avenue — Area code 917,
Mr. Richard Norman — but ask for operator

★ **Atlanta, Georgia 30308**
714 Spring Street, N.W. — 875-5666
Mr. Thomas L. Gunter — Area code 404

Boston, Massachusetts 021[illegible]
1168 Commonwealth Ave. — 734-3732
Mr. James Lowe — Area code 617

Buffalo, New York 14202
c/o Buchan Pictures — 853-1805
122 West Chippewa Street — Area code 716
Mr. Fred Buchan

Cedar Rapids, Iowa 52404
c/o Pratt Sound Films, Inc. — 365-0567
129 Third Avenue, S.W. — Area code 319
Mrs. Louise Nordstrom

Charlotte, North Carolina 28202
503 North College Street — 377-[illegible]574
Mr. Max Austin — Area code [illegible]04

★ **Chicago, Illinois 60611**
160 E. Grand Ave. — 467-6470
Mr. William Gallagher — Area code 312

★ **Cincinnati, Ohio 45202**
9 Garfield Place — 421-2516
Mrs. Rosalie Kuwatch — Area code 513

Cleveland, Ohio 44115
c/o Film Programs, Inc. — 621-9469
2738 Euclid Avenue — Area code 216
Mr. Al Shobel

★ **Dallas, Texas 75207**
1411 Slocum Street — 742-4106
Mr. Ed Cothran — Area code 214

Denver, Colorado 80204
c/o Cromar's Modern Films — 244-4621
922 Bannock Street — Area code 303
Mr. R. Kenneth Cromar

Detroit, Michigan 48203
c/o Engleman Visual Education Service — 883-7333
14533 Second Avenue — Area code 313
Mr. Lewis Lash

Harrisburg, Pennsylvania 17105
c/o J. P. Lilley & Son, Inc. — 238-8123
928 North Third Street — Area code 717
(P.O. Box 3035)
Mr. J. K. Lilley

Honolulu, Hawaii 96813
c/o Film Services of Hawaii, Ltd. — 581-928
742 Ala Moana Blvd.
Mrs. Arlayne Rosenstock

Houston, Texas 77027
4084 Westheimer Road — 622-3841
Mr. Gene Riggs — Area code 713

Indianapolis, Indiana 46204
102 East Vermont Street — 635-5331
Mrs. E. S. Poff — Area code 317

Kansas City, Missouri 64111
3718 Broadway — 561-1208
Mrs. Helen Bertsch — Area code 816

Los Angeles, California 90038
1145 N. McCadden Place — 469-8282
Mr. Jack Whalen — Area code 213

Memphis, Tennessee 38104
214 South Cleveland Street — 275-3187
Miss T. R. Boland — Area code 901

Milwaukee, Wisconsin 53202
c/o Roa's Films — 271-0861
1696 North Astor Street — Area code 414
Mrs. Roa K. Birch

Minneapolis, Minnesota 55403
c/o Elliott Film Company — 336-2645
1114 Nicollet Avenue — Area code 612
Mr. Fred Hoffman

New Orleans, Louisiana 70130
c/o Delta Visual Service, Inc. — 525-9061
715 Girod St. — Area code 504
Mr. F. J. Didier

New York
1212 Ave. of the Americas — 586-5530
New York, N. Y. 10036 — Area code 212
Mr. Alex Siodmak
Serving the boroughs of Manhattan & Bronx only.

★ 315 Springfield Avenue — 277-6300
Summit, N. J. 07901 — Area code 201
Mr. M. L. Marchewka
Serving Connecticut, northern New Jersey and southern New York State and the boroughs of Brooklyn, Queens and Richmond in NYC.

Omaha, Nebraska 68102
c/o Modern Sound Pictures, Inc. — 341-8476
1410 Howard Street — Area code 402
Mr. Keith T. Smith

Philadelphia, Pennsylvania 19107
1234 Spruce Street — 545-2500
Mrs. E. H. Dunn — Area code 215

Pittsburgh, Pennsylvania 15222
910 Penn Avenue — 471-9118
Mr. Hal Smith — Area code 412

St. Louis, Missouri 63103
c/o Swank Motion Pictures, Inc. — 531-5100
201 So. Jefferson Avenue — Area code 314
Mr. P. Ray Swank

★ **San Francisco, California 94105**
16 Spear Street — 982-1712
Mr. William Schweizer — Area code 415

Seattle, Washington 98103
c/o Rarig Presentation Services, Inc. — 633-3878
2100 North 45th Street — Area code 206
Mrs. E. A. Rarig

Washington, D. C. 20006
927 Nineteenth Street, N.W. — 783-6611
Mrs. Maria Denis — Area code 202

★ **CANADA**
Don Mills (Metro Toronto), Ontario
1875 Leslie Street — 444-7347
Mrs. Lottie Wilson — Area code 416

Montreal 1, Quebec
485 McGill Street — 878-3644
Mr. Pierre Brunelle — Area code 514

Shipments of films & merchandise from the U. S. must have proper customs documentation, or they will be returned to sender.

SALES & SERVICE OFFICES

1212 Ave. of the Americas
New York, New York 10036
765-3100 (Area code 212)

1909 Prudential Plaza
Chicago, Illinois 60601
337-3252 (Area code 312)

1943 Leslie St.
Don Mills—Ontario, Canada
444-7359 (Area code 416)

1717 N. Highland Ave.
Los Angeles, Calif. 90028
462-2201 (Area code 213)

910 Penn Ave.
Pittsburgh, Pennsylvania 15222
471-9118 (Area code 412)

NATIONAL WAREHOUSE
2323 New Hyde Park Road
New Hyde Park, L. I., N.Y. 11040
437-6313 (Area code 516)

200 Little Falls Street
Falls Church, Virginia 22046
532-0450 (Area code 703)

16 Spear Street
San Francisco, California 94105
982-9414 (Area code 415)

Printed in U.S.A.

★ Also Includes Television

Cable address: MODTALK NEW YORK

1/68

SCHEDULE A Continued

Modern Talking Picture Service, Inc. operates offices as indicated on the preceding page except where "L" appears. Such offices are operated by licensees.

578a

United Talking Picture Service Inc.
Rent Exchanges

SCHEDULE B

Name of League	Location	Date of Lease	Expiration Date	Rent (1) Year	Comments
Atlanta, Georgia	712 Spring Street N.W.	7/15/35	7/1/45	3500	4 years
Boston, Mass.	1142 Commonwealth Ave	11/1/35	11/1/45	6000	7 years
Charlotte N.C.	502 N. College St	2/20/47	2/20/70	3600	23 years
Chicago, Ill.	1 E. Grand Ave	7/1/35	7/1/70	17500	35 years
(Sales)	1909 Lawrence Plaza	2/1/36	7/1/45	6899.76	9 years 5 months
Cincinnati Ohio	9 Garfield Place	6/1/35	5/31/70	5000	35 years
Dallas, Texas	114 Slocum St	5/1/47	4/30/71	5994.96	24 years
Houston, Texas	4020 S. St Emanuel Road	2/1/37	7/31/72	3600	35 years
Indianapolis, Indiana	101 E. Vermont St	7/1/47	7/1/69	3375.96	22 years
Kansas City, Missouri	1212 Broadway	6/1/36	5/31/66	5200.00	30 years
Los Angeles, Calif.	1145 N. Wilcox Place	10/1/46	9/30/70	12000.00	24 years Taxes Subject to Increase Upon Termination of Lease
(Sales)	7217 N. Hollywood Ave			36.173	
Milwaukee, Wis.	744 S. Old World			3000.00	
New York Metropolitan Exchange	1482 Nth St Mark		7/31/57	6233.32	11 years 7 months Tax Clause
Newark, New Jersey	215 Springfield Ave	2/1/36	6/30/70	5652.32	34 years 5 months
Philadelphia, Penn	1334 Spruce	7/1/47	6/30/72	6715.56	25 years
Pittsburgh, Penn	2102 Penn Ave	12/1/47	11/30/72	10075.00	25 years
(Sales)				1000	
San Francisco	1 Taylor St	5/1/47	4/30/72	2775.00	25 years
(Sales)		2/1/36		1000.00	
Washington D.C.	1317 19th St. N.W.		7/1/45	5400.00	9 years 5 months Tax Clause for Increase in Taxes
" Sales Va	2nd Little Falls St			5730.00	
Don Mills Ontario (Toronto)	[illegible]	7/1/37	7/1/70	2400	33 years
Sales	1942 [illegible]	10/1/43	9/30/68	2400.00	25 years
Montreal Quebec	485 [illegible]	5/1/37	5/31/70	4800	33 years
New York [illegible]	3302 New Hyde Park Road	11/1/46	[illegible]	4881.60	[illegible]
		2/1/46	[illegible]	37767.20	Tax Clause
[illegible]					

© Dalton Adler Company 07215 Series 7215 Buff

Cross-Claimants'

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for id. 3/29/72 dcf

gs

SCHEDULE C

Agreement with Carl H. Lenz dated December 17, 1964 for seven years from September 1, 1964 with two additional four year renewals unless either party gives the other six months prior written notice.

Agreement with William H. MacCallum dated December 17, 1964 for five years commencing September 1, 1964 with a second term of five years as provided in the said agreement.

Union Contracts:

Airports	Parties	Expiration date
Atlanta	Modern Talking Picture Service, Inc. and Local 225 IATSE	Feb. 3, 1969
*Denver	Cromar & Local 230 IATSE	April 1, 1969
Kansas City	Modern Talking Picture Service, Inc. and Local 170 IATSE	Feb. 1970
*Minneapolis	Modern Talking Picture Service, Inc. and Local 219 IATSE	July 31, 1968
Pittsburgh	Modern Talking Picture Service, Inc. and Local 171 IATSE	Oct. 31, 1969
*Seattle	Rarig and Union	Jan. 1, 1970

*The employees at the Denver, Minneapolis and Seattle airports are paid by the respective licensees who in turn bill Modern Talking Picture Service, Inc.

Agreement with DeWitt, Pepper and Howell for legal services.

MMP MODERN MARKETING PROGRAMS
A DIVISION OF
MODERN TALKING PICTURE SERVICE, INC. • 1212 AVENUE OF THE AMERICAS • NEW YORK, N. Y. 10036
212 765-3100

May 7, 1968

Mr. Sidney Pepper, Esq.
DeWITT, PEPPER & HOWELL
120 Broadway
New York, New York

Dear Mr. Pepper:

At George Vicker's suggestion, I am pleased to forward the following information regarding MODERN MARKETING PROGRAMS:

TITLE OF SERIES:	NO OF TITLES:	DATE OF CONTRACT:
SOUND SLIDE FILMS *(Shoplifting - Bad Check Passing)	2	February 26, 1968
SUCCESSFUL SELLING SERIES	7	March, 1968
SOMEONE'S STEALING FROM YOU	1	February 26, 1968
VISUAL AIDS A CLASS OF YOUR OWN	2	February 1, 1967
PEOPLE SELL PEOPLE	4	October 4, 1965
PROFESSIONAL SELLING PRACTICES - SERIES I	4	
PROFESSIONAL SELLING PRACTICES - SERIES II	4	

*These 2 slide films are the property of MODERN MARKETING PROGRAMS.

Continued .....

TITLE OF SERIES:	NO. OF TITLES:	DATE OF CONTRACT:
PROFESSIONAL FOOD PREPARATION & SERVICE	9	July 29, 1966
PATIENTS ARE PEOPLE	6	July 14, 1967
U.S. GOVERNMENT MEDICAL FILMS G.S.A. CONTRACT	140	July, 1966

Sincerely,

MODERN MARKETING PROGRAMS

Karl M. Kuechenmeister

KMK:em

Karl M. Kuechenmeister
General Manager

MODERN

MODERN TALKING PICTURE SERVICE, INC.

COMPARATIVE BALANCE SHEET

FEBRUARY 29, 1968 AND FEBRUARY 28, 1967

	1968	1967	INCREASE (DECREASE)
ASSETS			
Current Assets:			
Cash	$ 130,607	$ 254,367	$(123,760)
Accounts & Notes Receivable (Net)	1,509,582	1,261,053	248,529
Inventory	45,643	46,318	(674)
Prepaid Expenses	27,237	9,148	18,089
Total Current Assets	1,713,070	1,570,886	142,184
Cash Surrender Value Life Insurance	58,616	47,661	10,955
Fixed Assets (Net)	714,853	583,730	131,123
Other Assets	16,544	12,134	4,410
TOTAL	$ 2,503,083	2,214,411	288,672
LIABILITIES & STOCKHOLDERS EQUITY			
Current Liabilities:			
Notes Payable	$ 450,000	$ 300,000	$ 150,000
Accounts Payable	247,145	275,766	(28,621)
Accrued Taxes	95,097	91,433	3,664
Accrued Profit Sharing	88,500	84,000	4,500
Total Current Liabilities	880,742	751,199	129,543
Stockholders Equity:			
Capital Stock	$ 94,500	94,500	---
Retained Earnings	1,527,841	1,368,712	159,129
Total Stockholders Equity	1,622,341	1,463,212	159,129
TOTAL	$ 2,503,083	$ 2,214,411	$ 288,672

MODERN TALKING PICTURE SERVICE, INC.

STATEMENT OF INCOME

EIGHT MONTHS ENDED - FEBRUARY

	1968		1967	
	AMOUNT	PERCENT	AMOUNT	PERCENT
Operating Revenue	$ 4,924,585	100.00	$ 4,266,418	100.00
Cost of Operating Revenue	3,919,018	79.58	3,359,576	78.74
Gross Profit	1,005,567	20.42	906,842	21.26
Administrative & Service Department Expense	808,866	16.43	721,080	16.90
Income before Federal Income Taxes	196,701	3.99	185,762	4.36
Provision for Federal Taxes on Income	88,000	1.78	81,000	1.90
Net Income	$ 108,701	2.21	104,762	2.46

MODERN TALKING PICTURE SERVICE, INC.

STATEMENT OF RETAINED EARNINGS

FEBRUARY 29, 1968

Balance - July 1, 1967	$ 1,439,930.00
Add:	
Net Income	108,701.00
	$ 1,548,631.00
Deduct:	
Dividends Paid	20,790.00
Balance - February 29, 1968	$ 1,527,841.00

585a

MODERN TALKING PICTURE SERVICE, INC.
STATEMENT OF GROSS PROFITS BY DIVISION
EIGHT MONTHS ENDED - FEBRUARY

	1968 TOTAL	1968 SPONSORED FILMS	1968 MODERN LEARNING AIDS	1968 MODERN MARKETING PROGRAMS	1967 TOTAL	1967 SPONSORED FILMS	1967 MODERN LEARNING AIDS	1967 MODERN MARKETING PROGRAMS
OPERATING REVENUE	[illegible]	3411,952	1,323,972	148,931	4,166,418	2,569,005	1,517,412	80,001
COST OF OPERATING REVENUE								
DIRECT CHARGES								
Prints & Equipment Sold	3[illegible]	-	2[illegible]121	34,630	286,139	-	276,378	7761
Royalties	7[illegible]	-	7[illegible]4	76,[illegible]	234,123	-	233,321	17,802
Licensee Payments	478,665	476,[illegible]	51,913	-	393,954	345,681	46,753	1320
Depreciation - Prints & Equip.	67,165	-	64,365	2,800	70,219	-	67,457	2,800
Advertising for Bookings	140,016	140,016	-	-	152,916	152,916	-	-
Other Direct Costs	169,573	71,372	101,701	15,000	142,419	70,990	52,011	19,417
	1,451,710	688,210	901,274	111,625	1,279,895	569,187	667,922	50,786
OPERATING EXPENSE								
Branch Office Costs	1,575,867	1,575,867	-	-	1,347,764	1,347,764	-	-
Sales Office Costs	654,517	351,733	259,431	43,347	609,714	329,029	238,627	41,999
Sales Promotion & Advertising	3[illegible]415	60,915	132,704	3[illegible]11	114,201	34,218	53,566	26,417
	2,[illegible]799	2,008,515	388,135	81,049	2,071,681	1,711,011	292,193	68,416
TOTAL	3,[illegible]8	2,[illegible]205	1,089,409	192,714	3,359,576	2,280,259	960,115	119,202
GROSS PROFIT	1,[illegible]9	779,177	239,073	(3683)	806,842	513,746	357,297	(33,201)

SERIES	PRINCIPAL	INDIVIDUAL
01-19	Educational Services, Inc. 39 Chapel Street Newton, Mass. 02160	William R. Jones ~~Gilbert Oakley~~
02	Calvin Productions, Inc. 1105 Truman Road Kansas City, Missouri	James Y. Hash
03-15	Republic Steel Corporation 1013 Midland Building Cleveland, Ohio 44101	L. C. Michelon
04	Rarig's Inc. 5510 University Way Seattle 5, Washington	Max H. Rarig
06	Mathematical Assn. of America c/o University of Buffalo Buffalo 14, New York	Harry Gehman
08	Carson New York Corporation 123 West 57th Street New York 19, New York	Sidney Berry
09	University of California Lawrence Hall of Science Berekeley, California 94720	David W. Ridgway
09	Sutherland Educational Films 201 North Occidental Avenue Los Angeles 26, California	John Sutherland
12-17	Colonial Williamsburg Incorp. Williamsburg, Virginia	Rober Amory
14	School Mathematics Study Group Stanford University Stanford, California	E. C. Begle
16	Dr. Herman Harvey 3768 Franklin Avenue Los Angeles 27, California	Dr. Herman Harvey
18	Prism Productions 220 East 23rd Street New York, New York	Mr. Don Herbert

SERIES	PRINCIPAL	INDIVIDUAL
20	Iowa State University Film Production Unit Ames, Iowa	Steve Knudsen
23	WBC Productions 240 West 44th Street New York, New York	Chester Collier ~~Leslie Arries, Pres.~~
24	Avalon Daggett Productions P. O. Box 14656 Baton Rouge, Louisiana	Avalon Daggett
25	Board of Governors Wayne State University Detroit, Michigan	Olin E. Thomas
27	Gallery Film Productions Waterloo House Worship Street London E. C. 2, England	G. V. Thayer, Jr.
27	Frederick R. Roycroft East Rocks Road Norwalk, Connecticut	Mr. Frederick R. Roycroft
28	American Broadcasting Corporation 270 Golden Gate Avenue San Francisco, California	David M. Sacks
30	Rayba[illegible] Technical Films, Inc 210 N. Boston Avenue North Massapequa, New York	Raymond Greenberg
3[illegible]	Calvin Productions, Inc. 1105 Truman Road Kansas City, Mo. 64106	James Y. Hash
31	Anne Saum & Associates 79 West 12th Street New York, New York	Anne Saum

SERIES	PRINCIPAL	INDIVIDUAL
32	Dr. Easton Rothwell Mills College Oakland, California	Dr. Easton Rothwell
33	UICSM Staff University of Illinois Committee on School Mathematics 1210 West Springfield Urbana, Illinois 61801	Mr. William Golden
34	Lingua Films, Inc. 6325 Santa Monica Blvd. Hollywood, California 90038	Gilbert R. Scott
35	Mathematical Association of America C/O SUNY at Buffalo Buffalo, New York 14214	Dr. Harry Gehman
36	Educational Development Center, Inc. 39 Chapel Street Newton, Massachusetts	Mr. Gilbert Oakly
37	Mathematical Association of America % SUNY at Buffalo Buffalo, New York 14214	Dr. Harry Gehman
38	American Meteorological Society 45 Beacon Street Boston, Massachusetts 02108	Kenneth C. Spengler
38	AMS--Above the Horizon National Film Board of Canada P. O. Box 6100 Montreal 3, Quebec, Canada	W. S. Jobbins
39	Avis Films P. O. Box 643 Burbank, California 91503	Leslie Helhena
40	Johnson-Hunt Productions Film Center La Canada, California	Mr. Silas E. Johnson
41	Hallmark Cards, Incorporated Kansas City Missouri 64141	Mr. William S. Johnson
42	American Astronomical Society 211 FitzRandolph Road Princeton, New Jersey 08540	Dr. Paul M. Routly

MODERN LEARNING AIDS

SERIES	PRINCIPAL	INDIVIDUAL
43	Educational Development Center, Inc. 39 Chapel Street Newton, Massachusetts	William R. Jones ~~Gilbert Oakley~~
44	Anne Saum & Associates 79 West 12th Street New York, New York	Anne Saum
45	E. E. G. E. Associates 4715 King Sessing Avenue Philadelphia, Pennsylvania 19143	Mr. Edward Brody
46	National Educational Media, Inc. 6363 Sunset Boulevard, Suite 701 Hollywood, California	Jack L. Copeland
47	Stewart Films Ltd. 2 Orchard Road Malverne, Worcestershire England	Hugh Marsh
48	Philips N. V. Film Section Eindhaven, Netherlands	Mr. K. Van Mierlo
49	Svenska A. B. Nordisk Tonefilm Apelbergsgatan 58 Stockholm, Sweden	Fred Terselius
50	American Oil Company 910 South Michigan Blvd. Chicago, Illinois	Louis H. Butler
51	Film du Cypres 11 rue Jasmin Paris 16, France	Pierre Alibert
52	Sektor Filmi Helsinki 13 Tarkk' Ampujank 3 B 9 Finland	Aimo Jaderholm

SERIES	PRINCIPAL	INDIVIDUAL
53	Education Development Center, Inc. 55 Chapel Street Newton, Mass. 02160	William R. Jones
54	United Transparencies, Inc. P. O. Box 888 Binghamton, New York 13902	F. D. Hudson
55	Biofilms The Manor House Ingleton-on-Miles Easton, Maryland 21601	Erik Cripps
56	George Borglum 319 Crane Avenue Royal Oak, Michigan 48067	George Borglum
57	Jones and Osmond, Inc. 37 Willow Street Brooklyn, New York 11201	Peter Jones
58	Caprino Filmcenter A/S Snarøvn 128 Snarøya, Norway	Ivo Caprino
59	Futura Films 1611 South Beverly Glen Blvd. Los Angeles, California 90024	Avram S. Dorion
60	Rarig's Presentation Services, Inc. 5510 University Way Seattle, Washington 98105	Edith H. Rarig (Mrs.)
61	Artemis Films, Inc. 118 Riverside Drive New York, New York 10024	Paul G. Winston
62		
63	Artemis Films, Inc. 118 Riverside Drive New York, New York 10024	Paul G. Winston

MODERN

MODERN TALKING PICTURE SERVICE, INC.

1212 AVENUE OF THE AMERICAS • NEW YORK, N. Y. 10036

212 765-3[illegible]

591a

MODERN MARKETING PROGRAMS

SERIES	PRINCIPAL	INDIVIDUAL
86 (Strip Films)	JUNE 7 PRODUCTIONS 12 East 46th Street New York, New York 10017	Mr. Mel Brez
87	INTERNATIONAL SALESPOWER INSTITUTE, INC. Ten Highbuilding Suite 300 Montgomery, Alabama	Mr. R.K. Hunter
88 (Shoplifting)	JUNE 7 PRODUCTIONS 12 East 46th Street New York, New York 10017	Mr. Mel Brez
89	STEWART FILMS, LTD. 2 Orchard Road Malvern, Worchestershire, England	Hugh Marsh
90	ANNE SAUM AND ASSOCIATES 79 West 12th Street New York, New York 10011	Miss Anne Saum
	CALVIN PRODUCTIONS 1105 Truman Road Kansas City, Missouri 64106	Mr. James Y. Hash
91	NATIONAL EDUCATIONAL MEDIA, INC. 3518 Cahuenga Boulevard, West Hollywood, California 90028	Mr. Jack L. Copeland
93	E.E.G.E. ASSOCIATES 4715 Kingsessing Avenue Philadelphia, Pennsylvania 19143	Mr. Edward Brody

(Continued .....)

MODERN

MODERN TALKI[illegible]PICTURE SERVICE, INC.
1212 AVENUE OF THE AMERICAS • NEW YORK, N. Y. 10036
212 765-3100

MODERN MARKETING PROGRAMS
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SERIES	PRINCIPAL	INDIVIDUAL
96	VACUMATE CORPORATION 427 West 42nd Street New York, New York 10036	Mr. Samuel Bunchez
97	DARTNELL CORPORATION 4660 Ravenswood Avenue Chicago, Illinois 60640	Mr. Gordon Fyfe
98	PORTA FILMS 4180 Dixie Highway Drayton Plains, Michigan 48020	Mr. William H. Murray
99	ANNE SAUM AND ASSOCIATES 79 West 12th Street New York, New York 10011	Miss Anne Saum
	CALVIN PRODUCTIONS 1105 Truman Road Kansas City Missouri 64106	Mr. James Y. Hash

Modern Talking Picture Service Inc.
Union Contracts

A/P.	Parties	Expiration Date.
Atlanta	MTPS + Local 225 IATSE	7/31/69.
Denver -	Cromer + Local 730 - "	7/1/69
Kansas City	MTPS + Local 170 "	7/70
Minneapolis	MTPS + Local 219 "	7/31/68
	[illegible] MTPS	
Pittsburgh	MTPS + Local 171 "	~~9/30/69~~ 10/31/69.
Seattle	Carig + Union (IBEW)	1/70
	MTPS Parin pd to	

EXECUTIVE CAR LEASING SYSTEM, INC.

THIS LEASE AGREEMENT is made and entered into at Great Neck, New York, on this 25 day of OCTOBER, 1966, by and between EXECUTIVE CAR LEASING SYSTEM, INC., a New York corporation, whose address is Great Neck, New York, hereinafter called "Lessor," and MODERN TALKING PICTURES SERVICE, INC., whose address is 1212 Sixth Avenue New York, New York, hereinafter called "Lessee,"

THE PARTIES HEREBY MUTUALLY AGREE AS FOLLOWS:

1. Description of Leased Vehicle: Lessor hereby leases to Lessee and Lessee hereby hires from Lessor, on the terms and conditions herein provided, that certain motor vehicle, as follows:

STOCK NO.	YEAR	MAKE & STYLE	MOTOR OR SERIAL NO.
	As	per Schedule "A"	

ADDITIONAL EQUIPMENT

As per Schedule "A"

COLORS: Top Ext. _____ Low Ext. _____ Interior _____

MONTHLY RENTAL

FIXED RENT £.65% p. unit

Pleasure ~~13.50~~ per unit

* INSURANCE $ Commercial ~~18.00~~ per unit

MAINTENANCE $ _____

RENTAL TAX $ where applicable

$ _____

$ _____

TOTAL $ _____

ORIGINAL VALUE

As per Schedule "A"

MONTHLY DEPRECIATION RESERVE

$ 2.0%

* $500/$1,000,000 Bodily Injury & $25,000 Property Damage Insurance. $50 Deductible Fire, Theft, Comprehensive & $100 Deductible Collision Insurance.

NOTE 1. LICENSE WILL BE *BILLED SEPARATELY* YEARLY. (WHERE APPLICABLE)

NOTE 2. Lessee hereby agrees to immediately deposit with Lessor the sum of $ _____ to be held as security for Lessee's proper performance and to be refunded upon termination or expiration hereof provided Lessee is not then in default, and in addition thereto the sum of $ _____ representing one (1) month's rental payment in advance pursuant to paragraph 5, herein below.

THE ABOVE IS HEREBY APPROVED:

Lessee: MODERN TALKING PICTURES SERVICE, INC.

By William M. Umansky, V.P.

2. Term; Return of Vehicle; Expiration Date: This lease begins on the date when said vehicle is delivered to Lessee or Lessee's representative and shall remain in effect until either (i) the date said vehicle is sold under paragraph 4, or (ii) the date Lessee makes final settlement regarding the vehicle under paragraph 14 whichever date shall first occur. Lessee shall give Lessor 30 days advance notice of the date when said vehicle will be available for sale under paragraph 4; provided however, that the date specified by Lessee shall not be less than one (1) year from the beginning of the term of this lease. Lessee shall return said vehicle on the date so specified to Lessor at Lessor's place of business, but nevertheless this lease shall continue in effect until the end of the said one (1) year, as provided above. Lessee further agrees that upon the expiration or termination of this lease for any reason, it will return to Lessor, at its said place of business, the said vehicle, in as good condition and repair as when received from Lessor, reasonable wear and tear and damage by fire or casualty in excess of the amount of the deductible insurance excepted. If Lessee defaults hereunder and Lessor terminates this lease, pursuant to paragraph 17, then this lease shall be deemed to have expired effective as of the date Lessor sends Lessee written notice demanding the return of said vehicle to Lessor. Lessor shall give such notice to Lessee by regular mail, postage prepaid, addressed to Lessee's last known address. Such notice shall not, however, be required in order to effectively terminate this lease in the event of Lessee's default (as provided in paragraph 17).

3. Delivery by Lessor: Lessor shall not be liable to Lessee for any failure or delay in obtaining the vehicle or making delivery thereof, if the failure or delay shall be due to a strike or other labor trouble or any other cause beyond the control of Lessor in its exercise of reasonable care.

4. Rental and Other Charges:

a. For the purposes of this lease, the term "original value" is herein defined as the original value of the motor vehicle (set forth in paragraph 1 above) as agreed between Lessor and Lessee, to be used as a basis for determining its depreciation hereunder.

b. The term "net sales proceeds" is defined as the net amount received upon a sale of said vehicle after deducting all expenses incurred by Lessor, or for which, if such expenses were not paid, Lessor would be liable, or which, if not paid, would constitute a lien on the said vehicle and including all expenses in connection with said vehicle and the sale thereof, up to the completion of such sale.

c. The term "depreciated value" shall mean, as to said vehicle, the original value thereof reduced by the sum accumulated by Lessor pursuant to paragraph 1 and paragraph 4 d. as a depreciation reserve.

d. Lessee agrees that it will, on each monthly rental payment date as provided in paragraph 5 hereof, pay Lessor as the fixed rent for said vehicle the amount set forth in the "monthly rental" column in paragraph 1 above. Lessor shall accumulate out of each rental payment as a depreciation reserve the amount designated as "monthly depreciation reserve" in paragraph 1 above.

e. When Lessee surrenders said vehicle to Lessor for sale, at the expiration or termination of this lease, or otherwise, or upon Lessor obtaining possession of said vehicle after Lessee's default, Lessor shall, as soon thereafter as practicable, cause same to be sold at its then wholesale value, depending upon its condition at the time of sale. Lessee acknowledges and agrees that Lessor has no facilities to sell motor vehicles at retail, and is under no duty to do so with regard to the vehicle leased hereunder. In selling said vehicle at wholesale, Lessor shall sell same for cash to the highest bidder, and the vehicle shall thereupon be deemed to have been sold at its then wholesale value. Upon Lessee's written request, Lessor shall promptly furnish Lessee with an accounting of such sale. If the net sale proceeds exceed the depreciated value of said vehicle, Lessor shall pay or credit the excess to Lessee as a refund of a portion of the rentals theretofore paid by Lessee, however, if the depreciated value of said vehicle exceeds the net sale proceeds, then, in such event, Lessee shall forthwith pay Lessor an amount equal to the excess as additional rental.

f. In addition to the foregoing, Lessee agrees to pay Lessor an administrative charge of 2.5% of the gross price for which said vehicle is sold, or $25.00, whichever sum be the greater, such charge to be due and payable as additional rental when final settlement is made with respect to said vehicle pursuant to paragraph 4 e. above or paragraph 14 below. Lessor agrees to waive such charge if Lessee should lease another vehicle from Lessor at the time of such final settlement.

5. Payment of Rentals: The first month's rent shall be due and payable in accordance with note 2 above. The second rental payment date shall be the first day of the month following the month in which said vehicle is delivered to Lessee, if delivered on or before the 15th of the month, and shall be the first day of the next succeeding calendar month thereafter if delivered on or after the 16th day of the month; and the first day of each and every month thereafter shall also be rental payment dates for said vehicle, until the rent payment period ceases as hereafter provided.

The rent payment period for fixed rents for said vehicle shall cease on the last day of the calendar month in which said vehicle is sold pursuant to paragraph 4 or final settlement is made pursuant to paragraph 14.

All rentals shall be paid at the office of Lessor as designated above, or such other place as Lessor may hereafter specify in writing to Lessee.

6. Late Charge: In addition to any other obligation of Lessee in this lease provided, in the event any payment due hereunder shall not be paid within twenty (20) days of its due date, Lessee agrees to pay a late charge at the rate of One Dollar ($1.00) per day for each vehicle leased to Lessee until payment is made. Such late charge shall be paid concurrently with the payment or payments then due.

7. Expenses; Fees and Taxes: In addition to fixed rentals as above provided, Lessee agrees to pay all costs, expenses, fees and charges incurred in connection with the licensing and registration of the said vehicle and of title thereto, and in connection with the use and operation thereof during the term of this lease, including without limitation, gasoline, oil, lubrication, repairs, maintenance, tires and tubes, storage, parking, tolls, fines, towing and servicing costs, as well as all sales taxes, use taxes, personal property and other ad valorem taxes and all assessments and other governmental charges whatsoever, and by whomsoever payable (exclusive only of any federal or state net income taxes against Lessor on or measured by rentals payable hereunder or the net income therefrom) on the said vehicle or on the use, ownership, possession, rental, shipment, transportation delivery or operation of same. However, the provisions of this paragraph shall not be deemed to obligate Lessee to pay any taxes or fees which are included in the computation of the original value. An ad valorem tax within the meaning hereof includes a tax on rentals in substitution for or which relieves Lessee from an ad valorem tax on the vehicle which Lessee otherwise would be obligated to pay under the terms hereof. Lessee agrees to reimburse Lessor upon demand as additional rental hereunder for the full amount of any costs, expenses, taxes, fees or other charges paid by Lessor which under this paragraph constitute an obligation of Lessee. It is agreed that Lessor may, in its discretion, prepare and file all returns required to be filed with regard to any taxes, fees or assessments which Lessee is obligated to pay hereunder and Lessor agrees to send Lessee any statement for such taxes, fees, assessments or other charges received by Lessor.

8. Use by Lessee; Compliance with Law; Assignment and Subleasing: Lessee agrees that during the term hereof, it will use or permit the use of the said vehicle only for [illegible] purposes and only within the United States and in the event use or permit same to be used for the transportation for hire of goods or passengers. Lessee warrants that the said vehicle will at all times be used and operated in compliance with all laws of any jurisdiction in which same may be operated. If required by law or requested by Lessor, Lessee agrees to promptly deliver said vehicle to the most appropriate governmental agency for such [illegible] as may be necessary. If required by applicable law, Lessee agrees to attach to said vehicle a sign, legend or other mark as may be required to protect and disclose the interest of Lessor, or disclose the fact that said vehicle is hired. Lessee agrees that it will not assign, transfer, sublet or in any way [illegible] its rights hereunder and will not suffer or permit any lien, cause to be levied, mortgage, hypothecate or otherwise encumber or charge its rights or interest hereunder.

9. Indemnity: Lessee agrees to and does hereby indemnify Lessor and hold Lessor [illegible] agents and employees, harmless of and from any and all losses, damages, claims, demands, or liabilities of any kind or nature whatsoever, including, but not limited to, those arising from the use, condition (and latent and other defects and whether or not discoverable by Lessor) or operation of said vehicle, and by whomsoever used or operated during the term hereof. This indemnification shall, without limitation, in full force and effect during the entire term of this lease notwithstanding the surrender [illegible]

10. No Abatement or Setoff; Loss of Business: Lessee agrees that the sums payable to Lessor hereunder shall not be subject to any abatement whatsoever, nor subject to any defense, setoff, counterclaim or recoupment, by reason of any damage to or loss or destruction of said vehicle, or any of the equipment thereon, or by reason of any interruption from any cause whatsoever (other than from a wrongful act of Lessor) in the use, possession or operation of said vehicle or of the equipment thereon. Lessor shall not be liable to Lessee for any loss of business or any damage of any kind caused by the interruption of the service herein provided.

11. Authority to Sign; Joint and Several Liability: If Lessee is a corporation, the person signing this lease on behalf of such corporation hereby warrants that he has full authority from such corporation to sign this lease and obligate the corporation. Said person and the corporation shall be jointly and severally liable for all rentals and all other sums that may at any time be due and owing to Lessor under the terms of this lease.

12. Credit Statements: Lessee shall not enter or cause to be entered any false and or misrepresentation in any credit application required to be executed as a preliminary condition to the lease of the motor vehicle or vehicles.

13. Title; Lessor's Right to Assign, etc.: Said vehicle is the sole property of Lessor, and Lessee shall have no right, title or interest therein as to the ownership thereof and shall have no right or option whatsoever to purchase said vehicle at any time, and this instrument is a lease and not a contract of sale. Lessee agrees that Lessor shall have the right at any time to assign this lease, including without limitation the right to assign some and all of its right, title and interest in all monies due or to become due hereunder, to any bank or lending institution, as security for a chattel mortgage on said vehicle in favor of such bank or lending institution. Lessee agrees, upon notice from such bank or lending institution to pay all monies due or to become due hereunder to such bank or lending institution, and in this connection Lessee agrees it has no counterclaims, offsets or defense against rent due hereunder, except as herein stated. Lessee further agrees that this lease at all times shall be subject and subordinate to any chattel mortgage affecting said vehicle, and such mortgage shall be a lien on said vehicle ahead of and superior to this lease.

14. Damage, Destruction, Theft or Loss and Settlement Therefor: Lessee agrees to bear all risk of damage, theft or destruction, partial or complete of said vehicle from whatsoever cause; and further agrees that all replacements, repairs or substitution of parts or equipment on same shall be at Lessee's expense and shall constitute accession to said vehicle and title thereto shall vest and remain in Lessor. Lessee further agrees that at its own expense, at all times, it will keep said vehicle in good and efficient working order, condition and repair. In the event of any loss, theft or destruction of said vehicle, or damage beyond repair or if the condition of same becomes such that continued repair and maintenance is unwise in the judgment of Lessee, it shall promptly notify Lessor thereof and hold said vehicle or any wreckage available for disposal and Lessor shall then cause same to be sold and promptly render an accounting to Lessee concerning such sale. All the provisions of paragraph 1 above shall apply with like effect to sales under this paragraph. If the motor vehicle or any wreckage is not available to Lessee for return as aforesaid, Lessee shall nevertheless promptly account to Lessor for the same amount which would be payable by Lessee for said vehicle had the same in effect been sold by Lessor and the net proceeds realized therefrom been zero.

15. Insurance: Lessee agrees at its own expense to at all times keep said vehicle insured against liability for bodily injury, death and property damage arising out of the condition, maintenance, use or operation of same with limits of $100,000.00 in respect to bodily injury or death to any one person, $300,000.00 in respect to one accident, and $25,000.00 in respect to property damage; and to maintain any other insurance on said vehicle and/or in respect to damages arising from the use or operation thereof, and to post such bonds, as may be required by applicable law as a condition to the use or operation of same hereunder in the jurisdiction where operated. In addition, Lessee further agrees, at its own expense, to keep and maintain $50 deductible comprehensive (including fire and theft) and collision insurance on said vehicle, the deductible amount under such collision insurance to be not in excess of $100.00. All insurance shall cover the period from delivery of said vehicle to Lessee to the date of sale and delivery pursuant to paragraph 4 or, as the case may be, paragraph 14 hereof, and further shall provide for a ten (10) day prior written notice to Lessor of cancellation of coverage, and shall cover the interest of both Lessor and Lessee in said vehicle, or as the case may be, shall protect both Lessor and Lessee in respect to all risks arising out of the condition, maintenance, use or operation of said vehicle. Lessee shall furnish Lessor with a certificate or other satisfactory evidence of the maintenance of the insurance hereunder required, and reflecting Lessor as an additional insured thereon.

The proceeds of any insurance received by Lessor resulting from any loss or casualty which has theretofore been made good by Lessee shall be remitted to Lessee upon satisfactory proof that such loss or casualty has been made good, unless Lessee is at the time in default under this lease.

If Lessee desires to have any or all of said insurance required hereunder provided through Lessor, Lessor agrees upon the written request of Lessee, use its best efforts to arrange for same on the condition that Lessor's insurance broker or the insurance carrier will provide or write the insurance; if insurance is so provided, Lessee shall pay Lessor, in addition to and concurrent with the monthly rental hereunder, during the period the insurance is so provided through Lessor, the additional insurance premium sums reflected in paragraph 1 above. Said sums are at current rates. If, at Lessee's request, Lessor should arrange for such insurance, as aforesaid, the policy limits for same will be as in this paragraph above provided, including $100.00 deductible collision and $50.00 deductible fire, theft and comprehensive. The insurance provided through the efforts of Lessor may at any time be cancelled by either Lessee or Lessor (through the insurance carrier) upon ten (10) days prior written notice to the other party, provided, however, that this shall not in any manner relieve Lessee of the duty of complying with the minimum insurance requirements set forth in this paragraph 15, and in this regard Lessee shall obtain the aforesaid required insurance coverage prior to the expiration of said ten (10) days and thereafter keep same in effect and promptly provide Lessor with satisfactory evidence thereof. If Lessee should fail to obtain the said required insurance coverage prior to the expiration of said ten (10) days, Lessor may, at its option, obtain such required insurance coverage on behalf of Lessee, in which event the cost of such coverage shall be Lessee's sole responsibility, and the full premium therefor shall be added to and be a part of the rental payment due and payable to Lessor on the first day of the next succeeding month.

16. Change in Insurance Rates: If Lessor arranges for insurance, as aforesaid, Lessee shall be liable for any increase in insurance premium rates during the term hereof upon fifteen (15) days written notice from Lessor. If such insurance premium rates are increased at any time during the term of such insurance coverage, the resulting increase shall be paid by Lessee. Lessee acknowledges that the insurance carrier may increase premium rates on an individual basis.

17. Defaults: If Lessee shall default in the payment of any installment of fixed rents, or any other sums payable hereunder by Lessee, or if Lessee fails to comply with any other of the terms, covenants or conditions herein on its part to be kept or performed, or if Lessee is adjudicated a bankrupt, or if Lessee or its creditors file for relief under any bankruptcy or similar laws for the relief of debtors, or if Lessee shall make any assignment for the benefit of creditors, or assigns, transfer, lien or encumber Lessee's interest hereunder in a manner not permitted by the terms hereof, or if a receiver be appointed for any of the assets of Lessee, then, in any such event, Lessee shall be deemed to be in default hereunder, and Lessor, at its sole option, may thereupon terminate this lease without further notice to Lessee. Upon Lessor so terminating this lease, the vehicle and any rights of Lessee therein shall be forthwith surrendered to Lessor, and Lessor or its agents may take possession of said vehicle wherever same may be found, and may enter upon any premises of Lessee to take possession of same. Lessor shall hold such repossessed vehicle free and clear of this lease and any rights of Lessee hereunder. Notwithstanding any provisions hereof to the contrary, the rent payment period for such vehicle surrendered or repossessed hereunder shall terminate on the last day of the calendar month in which such vehicle shall have been so surrendered or repossessed. Lessor shall retain all rents and additional sums paid by Lessee hereunder regarding said vehicle, as well as all refunds and other sums, if any, then in its possession, which, had this lease not been so terminated upon Lessee's default, would otherwise be payable to the Lessee hereunder. In addition, Lessor shall be entitled to recover from Lessee all unpaid fixed rents for the period up to the termination of the rent payment period for said vehicle, together with all additional rentals (including any sums due under paragraph 4 hereof), and other sums (including any repossession costs, expenses for removal of the vehicle storage, repair and sale, all of which sums including the balance of rentals due hereunder shall immediately become due and payable, without any notice and demand, as liquidated damages and not as a penalty) payable by Lessee pursuant to any of the provisions of this lease, then owing and unpaid. Repossession by Lessor, as aforesaid, and any sale or sales made by Lessor of such vehicle, shall not in any manner affect the right of Lessor to recover from Lessee any and all damages which Lessor shall have sustained by reason of the breach by Lessee of any of the covenants, terms or conditions of this lease. The Lessee shall remain and be liable for the return of the vehicle and any loss or destruction of or injury to the vehicle during repossession and removal to date of sale. If Lessee is in default of this lease, any other lease between Lessee and Lessor shall be deemed to be in default and Lessor shall have all rights set forth herein as to all of the said leases. The remedies herein provided in favor of Lessor upon default of Lessee shall not be deemed to be exclusive, but shall be cumulative and in addition to all other remedies in its favor existing in law, equity or bankruptcy.

18. Attorney's Fees and Costs: In the event Lessee shall default hereunder, as provided in paragraph 17 above, Lessor shall be entitled to recover from Lessee, in addition to all other items of damages, all costs and expenses, including court costs and attorney's fees in an amount equal to fifteen (15%) percent of the balance due at the time it is placed with an attorney in the event suit is filed by Lessor to enforce its rights and remedies hereunder.

19. Additional Vehicles: If Lessee should lease and hire any vehicle or vehicles from Lessor, in addition to the said vehicle described in paragraph 1 above, such additional vehicle or vehicles shall be described in a separate schedule or schedules which are attached hereto and by this reference incorporated herein and made a part hereof as if such description were set forth at length in paragraph 1 above. In such event, all reference to "said vehicle" in this lease shall be deemed to read "said vehicles" and such additional vehicle or vehicles shall be included herein and subject to all of the provisions, covenants and conditions of this lease. If Lessee should default, as provided in paragraph 17, as to any one of the vehicles so covered by this lease, such default may, at Lessor's option, apply with like force and effect to all the vehicles leased hereunder. Either party hereto may terminate all rights and obligations of both parties hereto with respect to leasing any additional motor vehicle hereunder upon not less than thirty (30) days written notice to the other party, given at any time after one (1) year from the date hereof, but nevertheless this lease shall continue in full force and effect with respect to all motor vehicles respectively under lease hereunder on the effective date of such termination until the expiration of therespective lease terms of such motor vehicles.

20. Time of Essence; Waiver, Amendment, etc.: Time is of the essence of this lease. This instrument constitutes the entire agreement between the parties and shall be binding upon the parties and their respective heirs, executors, successors or assigns, and shall only be amended by a written instrument signed by the parties hereto. Any waiver of the performance of any of the terms, covenants or conditions hereof by either party shall not be construed as thereafter waiving any such terms, conditions, or covenants, but same shall remain in full force and effect, as if no such waiver had occurred. If any provision or term of this lease is declared by any court of competent jurisdiction to be invalid, such invalidity shall not affect any other provision, term or condition hereof, but the remainder of this lease shall be effective as though such invalid clause or provision had not been contained herein.

21. Applicable Law; Execution: This lease shall be construed and interpreted under the laws of the State of New York and may be signed in any number of counterparts each constituting a duplicate original.

IN WITNESS WHEREOF, the parties hereto have executed this Motor Vehicle Lease Agreement on the day and year first above written.

EXECUTIVE CAR LEASING SYSTEM, INC.
A New York Corporation,

By _____ (Title)
LESSOR

MODERN TALKING PICTURES SERVICE, INC.
LESSEE
By _____ (Title)

SCHEDULE "A" . . . TO
MOTOR VEHICLE LEASE AGREEMENT

Dated January 12th, 1967

Between

EXECUTIVE CAR LEASING SYS., INC., Lessor

and

Modern Talking Pictures
Customer

ELS# 00589-005

Mr. Kenneth W. Chastain, Jr.
1237 Lanier Blvd., N.E.
Address: Atlanta, Georgia

Phone:

STOCK NO.	YEAR	MAKE & STYLE	MOTOR NUMBER	ADDITIONAL EQUIPMENT	CAPITALIZED COST	MONTHLY RENTAL	DEPRECIATION RESERVE
	1967	Oldsmobile Convertible Cutlass Supreme Ser.# M211347 Color Int. Top Ext. Black Bottom Ext. Gold	W378266G	Automatic Trans.; Radio; W/W/ Tires; Electric Windows; Remote Control Mirror; Electric Antenna; Safety Sentinel; Accessory Package; Tilt Steering; Console; Del. Seat Belts; Wire Wheel Covers; Electric Clock;	$3417.62	$90.57 2.71 * $93.28 * Tax @3%	$68.35

License To Be Billed Separately Once a Year

Accepted, approved, and agreed to
this 12th day of December 19 66
as a schedule to and part of lease dated
the 25th day of October 19 66
LESSEE: Modern Talking Pictures
By: K.W. Chastain Jr.
Title

EXECUTIVE CAR LEASING SYS., INC., Lessor

By:
Vice President

Account Exec.

596a

AGREEMENT made this 17th day of December, 1964 between MODERN TALKING PICTURE SERVICE, INC., a corporation organized under the laws of the State of Delaware, with its principal office at 3 East 54th Street, New York, New York, hereinafter called "Modern", and CARL H. LENZ, of Stamford, Connecticut, hereinafter called "Lenz",

W I T N E S S E T H :

WHEREAS, Lenz has been the Executive Vice President of Modern for a number of years and was elected President of Modern on September 1, 1964; and

WHEREAS, the parties desire to set forth the terms of employment of Lenz by Modern,

NOW, THEREFORE, it is agreed as follows:

1. Modern hereby employs Lenz as President and Lenz hereby agrees to serve Modern as President faithfully and to the best of his ability during the period of his employment with such duties as may be reasonably assigned to him from time to time by Modern's Board of Directors. During that period Lenz shall devote his entire time, skill and attention exclusively to the business of Modern, except during usual vacation periods and except to the extent reasonably required by Lenz for the supervision of his own investments, none of which shall be in competing businesses.

2. The period of employment of Lenz by Modern hereunder shall be deemed to have commenced September 1, 1964 and shall extend for seven (7) years. The period of the employment shall

be automatically renewed for two additional four (4) year periods unless either party shall give the other six (6) months prior written notice that such party does not elect to renew the agreement.

3. Modern shall pay Lenz during his employment hereunder for all his services to Modern the sum of forty-five thousand dollars ($45,000.00) a year, payable in equal monthly or other installments in accordance with the general practice of Modern. Lenz shall be entitled to receive such additional compensation as may be specifically authorized by Modern's Board of Directors for services as a director and as a member of its Executive Committee.

4. Modern shall pay or reimburse Lenz upon submission of vouchers by him, for all out-of-pocket expenses for entertainment, travel, meals, hotel accomodations, and the like incurred by him in the interest of its business, including his dues and expense for such organizations as he may now belong to or may hereafter join for the business purposes of Modern.

5. Lenz shall not during the term of this agreement and any renewal hereof, directly or indirectly, render any services of an advisory nature or otherwise to or become employed by, or participate or engage in any business competitive with any of the businesses of Modern, without the prior written consent of Modern's Board of Directors.

6. If Modern shall at any time be merged or consolidated into or with any other corporation or substantially all the assets of Modern are transferred to another corporation, the provisions of this agreement shall be binding upon and inure to the benefit of the corporation resulting from such merger or consolidation or to which such assets shall be transferred, and this provision shall apply for the basis of any subsequent merger, consolidation or transfer.

7. The rights and benefits of Lenz under this agreement are personal to him and no such right or benefit shall be subject to voluntary or involuntary alienation, assignment or transfer.

IN WITNESS WHEREOF the parties have signed this agreement.

MODERN TALKING PICTURE SERVICES, INC.

By: William H. MacPherson
Executive Vice President

Attest: E. N. Ce
Secretary

Carl H. Lenz
Carl H. Lenz

600a

EASTERN AIRLINES EMPLOYEES CREDIT U.

INFORMATION FOR LENDER AUTHORIZATION

Employee	Residence			Location Checked	Credit Checked	Credit to Lend	Payroll Deduction
R. Thomas	Scarsdale, N.Y.	1965 Chev 2dr	5 1 X 3 X 053	510 NY Sales	6 0 1 X	—	—
C Reese	Don Mills, Ont.	1967 Chev Wagon	7 1 1 3 0 6 6 8	940 Toronto	6 8 X X	X 0 0 0	3 0 0 0
E De Pe, J	Wharton, N.J.	1967 Ford Sta W	7 T 1 6 7 0 1 2	930 Hdq.	6 W 3 6	X 6 0 0	3 6 0 0
W. Ortiz	Palm Beach, Fla	1967 Dodge Sedan	1 2 7 5 3 0	Miscellaneous	—	Pd by Miscellaneous	—
K Chrestien, Jr.	Atlanta, Ga.	1967 Chev Sedan	7 0 2 1 1 3 4 7	060 Atlanta	6 W 2 5	X 1 0 0 0	4 0 0 0
E. Swanson	Evanston, Ill.	1967 Chev Sta	7 T 1 7 2 6 1 1	150 Chicago	6 5 7 3	X 3 0 0	3 0 0 0
D. Mowry	McDonnell, Pa.	1967 Chev Sed	7 U 1 5 1 2 1 4	720 Pitts.	6 5 4 5	X 3 0 0	3 0 0 0
J. Langelotz, Jr.	Arlington, Mass	1965 Ford 2dr	7 T 1 6 5 4 7 3	070 Boston	6 W 2 9	1 5 0 0	2 4 0 0
W. Fitzgibbon	San Fr, Cal.	1967 Chev Sp	7 C 1 1 8 5 5	870 San Fr	6 8 1 7	X 3 0 0	
P. Kelley	Mill Val, Cal.	1967 Ford Sp	7 C 1 1 9 5 0	870 San Fr	6 8 1 7	3 2 0 0	3 2 0 0
P. McAllister	San Rafael, Cal	1967 Chev Sp	7 C 1 1 3 6 2 1	435 Los Ang.	6 8 1 7	X 3 0 0	3 2 0 0
J. Reno	Darien, Conn	1965 Pont 2dr	7 X 1 4 2 1 1 9	310 Hdq.	6 3 6 7	X 3 0 0	3 2 0 0
C R Hensley	Mesquite, Tex.	1965 Ford 2dr	R 1 3 0 7 3 5	240 Dallas	6 6 9 1	3 9 0 0	4 6 0 0
B. Dominic	Irving, Tex	1967 Ply Sed	7 6 2 1 1 1 9 7	240 Dallas	6 4 9 3	3 4 0 0	4 0 0 0
J. Dalley	Annandale, Va.	1967 Chev Sed Ca	7 W 1 3 5 1 2 2	960 Wash. D.C.	6 4 9 0	X 4 0 0	3 6 0 0
N. P. D.	Mtge Pass, N.Y.	1967 Chev Panel	5 7 T 3 1 8 7 2	930 Hdq	8 0 0 5	—	—
F. Hufford	Westmont, Ill.	1967 Chev Sedn	7 8 1 9 8 3 2	960 Wash. D.C.	6 3 9 1	1 7 0 0	2 0 0 0
R Rogers	Westmont, Ill.	1967 Olds Sed	7 9 1 6 5 2 4	930 Hdq.	7 X 7 7	3 6 0 0	4 0 0 0
R. Arnold	Des Moines, Iowa	1967 Ford Sed	7 7 1 7 4 5 4	150 Chicago	6 W 3 5	X 5 0 0	
C Lenz	Stamford, Conn	1967 Rambler	9 1 0 5 4 0 3 ①	Miscellaneous	—	6 2 5 0	5 6 0 0
R. Bel Corso	Upper Saddle Rvr, N.J.	1965 Pont Bonn	5 U 1 3 X 0 3 1	930 Hdq.	6 5 7 4	2 2 0 0	
D. Fenske	Chicago, Ill.	1965 Chev Sedan	8 P 1 7 1 3 2 5	150 Chicago	6 6 7 7	1 7 0 0	
J. Foulis	Chicago, Ill.	1965 Ply. 2dr.	8 P 1 9 9 3 0 5	150 Chicago	6 6 5 4	1 5 0 0	

2212 A

① Insurance carried - Penn Mutual

* Covered by Insur. For Ea. Emp.
Also covered

Mrs. 67 1965 Dodge Sedan 1964 40613 Pitts, Pa.

601a

Automobile - Payroll Deductions
Commencing Pay period 11-30-07

	Employee			Monthly total Deduction	Per pay period Deduction
C	C Thesen	✓		3000	1500
E	Lodge	✓	"	3600	1800
B	~~B~~				
K	Chastain	✓	"	4000	2000
E	Swanson	✓	"	3000	1500
N	Kenny	✓	"	3000	1500
W	Langlois	✓	2/00	~~4800~~	~~1200~~
R	Kelley	✓	"	3200	1600
R	MacAllister	✓	"	3200	1600
J	Renko	✓		3200	1600
B	Downing	✓	"	~~4800~~	~~2400~~
J	Kelly	✓	"	3000	1500
~~J~~	~~Kelly~~				
J	Kelly	✓	"	2000	1000
R W	Rogers	✓	"	4000	2000
C P	Hardy		"	1400	700

AGREEMENT made this 17th day of December, 1964 between MODERN TALKING PICTURE SERVICE, INC., a corporation organized under the laws of the State of Delaware, with its principal office at 3 East 54th Street, New York, New York, hereinafter called "Modern", and WILLIAM H. MacCALLUM, of 10501 Wilshire Boulevard, Los Angeles, California, hereinafter called "MacCallum",

W I T N E S S E T H :

WHEREAS, MacCallum has been a Vice President of Modern for many years and has been in charge of the Modern Learning Aids division of Modern since its inception and has developed and expanded its business with conspicuous success; and

WHEREAS, Modern believes that the future services of MacCallum will be of great value to Modern and MacCallum is willing to continue in the employ of Modern on a full time basis for an additional five (5) year period and to be retained thereafter on a part time basis; and

WHEREAS, the parties desire to set forth the terms of employment of MacCallum by Modern,

NOW, THEREFORE, it is agreed as follows:

1. Modern hereby employs MacCallum and MacCallum hereby agrees to serve Modern in an executive capacity during the period of his employment with such duties as have been heretofore assigned to him by Modern during the preceding four (4) years and such other executive duties as may be reasonably

assigned to him from time to time by Modern, not inconsistent with his aforesaid prior duties. Such services shall be performed in Los Angeles, California unless the parties otherwise agree.

2. The initial period of MacCallum's employment hereunder shall be deemed to have commenced September 1, 1964 and shall extend for five (5) years. Anything herein to the contrary notwithstanding the initial period may be terminated by either party giving the other at least ninety (90) days prior written notice. Such termination shall be effective on the date stated in the notice, but not earlier than September 1, 1966. The initial period of MacCallum's employment hereunder, whether or not shortened as hereinbefore provided, shall be followed by a second term of five (5) years from the date of the expiration or termination of the initial period.

3. During the second period of his employment MacCallum shall perform such advisory and consultative services on a part time basis as may, from time to time, be requested by Modern; provided such services shall be performed at such place or places within the United States not more than fifty miles from MacCallum's place of residence or at such other places as MacCallum and Modern may from time to time designate. MacCallum shall not be required to devote a major part of his time to such services and shall not be required to render such services during reasonable vacation periods or during periods of illness or other incapacity.

now belong to or may hereafter join for the business purposes of Modern.

7. No payments shall be required to be made by Modern to MacCallum during the second period of his employment, if MacCallum is engaged in any activity which is competitive with any business then carried on by Modern or by any company directly or indirectly controlled by Modern or if MacCallum is engaged in the conduct or management of any business of substantial size or any employment which yields him compensation of more than ten thousand dollars ($10,000.00) a year. Nothing hereunder, however, shall prohibit MacCallum from purchasing stock or other securities of any corporation which shall have any security listed upon any recognized securities exchange, nor from making any investment in a non-competing business nor from becoming a director of any corporation conducting a non-competing business.

8. Except as hereinabove, otherwise expressly provided, MacCallum agrees on behalf of himself and of his executors and administrators, heirs, legatees, distributees, and any other person or persons claiming any benefits under him by virtue of this agreement that this agreement and the rights, interests, and benefits hereunder shall not be assigned, transferred, pledged,or hypothecated in any way by MacCallum or any executor, administrator, heir, legatee, distributee, or other person claiming under MacCallum by virtue of this agreement and shall not be subject to execution, attachment, or

similar process. Any attempted assignment transfer, pledge or hypothecation or other disposition of this agreement or of such rights, interests, and benefits contrary to the foregoing provisions, or the levy of any attachment or similar process thereupon, shall be null and void and without effect.

9. If Modern shall at any time be merged or consolidated into or with any other corporation or substantially all the assets of Modern are transferred to another corporation, the provisions of this agreement shall be binding upon and inure to the benefit of the corporation resulting from such merger or consolidation or to which such assets shall be transferred, and this provision shall apply for the basis of any subsequent merger, consolidation or transfer.

IN WITNESS WHEREOF the parties have signed this agreement.

MODERN TALKING PICTURE SERVICES, INC.

By: Carl H. Lenz
President

Attest: Eli N. Evl
Secretary

William H. MacCallum
William H. MacCallum

607a

SCHEDULE OF YOUR CURRENT INSURANCE——SCHEDULE D

A SERVICE OF
Wilson and Allen, Inc.
INSURANCE
200 PARK AVENUE, SUITE 4402
NEW YORK, N. Y. 10017
PHONE: (212) 682-6334

PREPARED FOR: MODERN TALKING PICTURE SERVICE, INC.
1212 Avenue of the Americas
New York, New York

Cross-claimants' Exhibit 3/29/72 Cont'd

PROPERTY LOCATION: (IF DIFFERENT FROM ABOVE)

DATE PREPARED: 5/2/68 (As of 4/30/68)

COVERAGE	AMOUNT OF LIMITS	TERM IN YEARS	EXPIRES	COMPANY	POLICY NUMBER	PREMIUM	COMMENTS
Special Property Floater	$ 274,665	1	3/17/69	Federal	FMPO 690-17-29	$ 1,993	Covers Computer
Aviation Non-Ownership	$ 1,000,000	1	9/1/69	Federal	CHL - 1 16981	$ 300	
Special Property Floater	Scheduled	3	12/31/69	Atlantic	222085367	$ 6,981	Covers Projection & related Photographic Equipment
Travel Accident Ins.	$ 100,000 50,000 25,000		1/1/70	Continental	GTA 1683	$1,741.70	Income Class 1 over $20,000 Class II 10- 20,000 Class III - Under $10,000
Comprehensive Auto Liability (Including Physical Damage)	$500/1,000 000 25,000 PD Comprehensive Collision $100 ded.	1 B.I.	1/1/69	Atlantic	366-002968	$5,065.91	
Medical Payments	5,000						

We present this schedule so you may get an overall picture of your insurance protection. If you have policies from other insurance offices we suggest you add them to this list to present the complete picture.

Please examine this schedule with particular reference to the amount or limits of your insurance. Today's property values and liability judgments are higher and insurance should be adjusted to cover.

We will be glad to discuss this schedule with you at your convenience.

608a

SCHEDULE OF YOUR CURRENT INSURANCE

Page 2

PREPARED FOR MODERN TALKING PICTURE SERVICE INC.

A SERVICE OF
Wilson and Allen, Inc.
INSURANCE
200 PARK AVENUE, SUITE 4402
NEW YORK, N. Y. 10017
PHONE: (212) 682-6334

PROPERTY LOCATION: (IF DIFFERENT FROM ABOVE)

DATE PREPARED:

COVERAGE	AMOUNT OR LIMITS	TERM IN YEARS	EXPIRES	COMPANY	POLICY NUMBER	PREMIUM	COMMENTS
Package Contract	Various	3	1/1/69	Centennial	291-626-448	$8,730.90	Earthquake covered California & Alaska
1. 'ALL RISK' Physical Loss All Locations							
2. Extra Expense	$ 50,000.						1212 Sixth Ave. only
3. Comprehensive General Liability	$500,000/BI 1,000,000 $ 50,000PD						Excludes cover on Sponsored Films
4. Transit	$ 5,000						
5. Property in custody of any one customer	$ 300.						
6. Property any one unnamed location	$ 10,000						

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609a

SCHEDULE OF YOUR CURRENT INSURANCE

Page 3

PREPARED FOR MODERN TALKING PICTURE SERVICE, INC.

PROPERTY LOCATION: (IF DIFFERENT FROM ABOVE)

A SERVICE OF

Wilson and Allen, Inc.

INSURANCE

200 PARK AVENUE, SUITE 4402

NEW YORK, N. Y. 10017

PHONE: (212) 682-6334

DATE PREPARED:

COVERAGE	AMOUNT OR LIMITS	TERM IN YEARS	EXPIRES	COMPANY	POLICY NUMBER	PREMIUM	COMMENTS
Workmen's Compensation	Stat.	1	1/1/69	Atlantic	400-321909	Deposit $7,171.	Employers. Lia. $100,000 No coverage in Ohio or Canada
Comprehensive Crime	$100,000	3	12/31/69	Royal Ind.	509400	$2,096.80	$100,000 Employee Dishonesty $100,000 Depositors Forgery $25,000 Depositors Forgery for: Carl H. Lenz Wm. H. MacCallum
Lease Guarantee Bond	$4,000	3	2/23/70	Royal Ind.	513003	$200	Seattle Airport Authority Denver Airport Authority
Blanket Catastrophe Liability Policy (Umbrella)	$5,000,000	3	1/1/69	Ins. Co. of No. America	XBC 1891	$3,075.	Excess of basic auto and Liability Policies - Uninsured losses subject to $10,000 Ded.
Liability	250/500 BI 100,000 PD	1	3/25/70	Atlantic	464005120	$114	Special Policy required by Denver, Colo. Airport Authority

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Please examine this schedule with particular reference to the amount or limits of your insurance. Today's property values and liability judgments are higher and insurance should be adjusted to cover.

We will be glad to discuss this schedule with you at your convenience.

PEPPER EXHIBIT FFFF

economic benefits to both parties to the acquisition.

Prepared drafts of and amendments to plans, agreements and supplementary instruments for acquisitions.

Obtained and assembled data pertaining to the assets and obligations of Modern Talking Picture Service, Inc.; studied such data and made recommendations for the transfer and handling thereof and the desirability thereof under the then proposed plans of acquisition.

Considered the injunction action brought in the Delaware Chancery Court in Newcastle County against Modern Talking Picture Service, Inc. and others; retained counsel for the defense thereof; communicated information to counsel; attended at Wilmington, Delaware to confer with counsel and prospective witnesses and to testify in court; studied the decision of the court and the procedures open after the court's decision and assisted counsel in the termination of the Delaware action.

Conferences and correspondence with stockholders, officers and employees of Modern Talking Picture Service, Inc. and others.

Bangor, Punta Corporation
Bear, Stearns & Co.
Bell & Howell Company
Boise Cascade Corporation
Cahners Publishing Company, Inc
Columbia Pictures Corporation
Consolidated Electronics
Fairchild Camera
First National City Bank
Fuqua Industries, Inc.
General Films
General Telephone Co.
Harper & Row
International Telephone & Telegraph Corporation
K M S Industries, Inc.
Laird Industries, Inc.
Learning Development Corporation
S. D. Leidersdorf & Company
Metro-Goldwyn Mayer
Metro Media
National Industries, Inc.
National Screen Service Corporation
New York Hanseatic Corporation
North American Phillips Company
Quantum Science Corporation
Screen Gems
Sonderling Broadcasting Corporation
State Mutual Life Assurance Company of America
Times Union
Shorman Unger
Walter Reed Organization, Inc.
Robert A. Weaver, Jr. & Associates
Wometco Enterprises, Inc.

PEPPER EXHIBIT BB

Cross-Claimants'
Exp. HH-2 for id.
3/22/72 cfh.

615a

OFFICE OF
BURTON E. ROBBINS
PRESIDENT

February 15th, 1968

Mr. Charl H. Lenz
Modern Talking Picture Service, Inc.
1212 Avenue of the Americas
New York, N.Y. 10036

Dear Mr. Lenz:

It was suggested recently by a mutual friend that it might prove beneficial if your company and ours were to discuss the possibilities of affiliation. Since we are both in the basic business of distributing film (and yet are non-competitive), and since we maintain a fully geared distribution system with 18 branches and 7 shipping stations, it would appear reasonable that there might be values to both of us in such a meeting.

If the idea appeals to you, would you call me with a view to setting up a mutually convenient date?

Cordially,

Burton E. Robbins

Burton E. Robbins

Cass Financials
Cf. HH-1 for 'ol.
3/27/72 cp. MTPS sh

616a

MODERN

MODERN TALKING PICTURE SERVICE, INC. • 1212 AVENUE OF THE AMERICAS • NEW YORK, N. Y. 10036
212 765-3100

March 1, 1968

Mr. Burton E. Robbins, President
National Screen Service Corporation
1600 Broadway
New York, New York 10019

Dear Mr. Robbins:

Due to some travel, I am a bit delayed in answering your interesting letter of last month.

I have been asked by the Attorney for the principal owners of the company not to get into discussions of the nature suggested in your letter, but in turn will chat with him about the matter and if there is interest on his part, you will be hearing from him directly.

Sincerely,

Carl H. Lenz
President

RECEIVED
MAR 4 1968
DeWITT PEPPER & HOWELL

CHL:j

Bcc: Sidney Pepper ✓

P.S. to Sidney Pepper

Sid: I am sure you know this company...they simply handle the screen trailers and promotion materials for some of the majors. I have seen a couple of their exchanges over the past years and they are nothing like ours and all unionized, simply because they are dealing with theatrical product. Frankly, I don't feel that there is much of a fit here at all and consequently my letter to Robbins was anything but encouraging. If you want to follow up on it, give me a call.

Regards,

PEPPER EXHIBIT AA

Plaintiffs'
CC for id.
3/28/72 cp

618a

March 1, 1968

Mr. Carl H. Lenz, President,
Modern Talking Picture Service, Inc.,
1212 Avenue of the Americas,
New York, New York.

Dear Carl:

Sherman Unger, Esq. is listed in Martindale's with a "bv" rating. The "av" rating is the top rating. the "bv" rating is a high rating.

Mr. Unger's firm is rated "av".

Mr. Under was born on October 9, 1927 and admitted to the Bar in 1953. He received his legal education at the University of Cincinnati. He is a member of Frost & Jacobs.

Very sincerely,

SP:cm

PEPPER EXHIBIT DD

620a

Cross-Examination
Ex. MMMM for id
3/28/72

March 12, 1968

Mrs. Rosalie M. Arlinghaus,
Passenger on S.S. ARGENTINA,
c/o The West Indian Company, Ltd.,
P. O. Box 660,
St. Thomas, U.S. Virgin Islands 00802

Dear Rosalie:

I have had your letter from Argentina on my desk. I did not reply because I did not know what to say to you. For some time we have been feeling that Fuqua was seeking a way out of its commitment. They have given us notice in writing that they would not close and they did not close. They claim that the nine month statement of Richard Russell, which is appended to the contract, contains misrepresentations. Whether it does or does not is something which I have not been able to verify sufficiently. My offhand opinion is that it does not and they are sizing upon a difference of actual earnings as adjusted by the accountants as an excuse for renegotiating. We have offered to renegotiate the deal on a somewhat reduced basis, but have not had a positive answer from them.

In the meantime we will proceed to try to sell it to someone else and are exploring the possibility of sueing Fuqua for damages in the difference between what we get from somebody else and the value of the stock which we were to receive from Fuqua.

Of course, this prevents us from going ahead with the MTPS deal. I have met with Laird Industries at Carl's request. They would probably go to 2½ million for MTPS with notes. Carl is now strongly against Laird.

I lunched today with a young lawyer from Cincinnati at Carl's request. He is willing to pay $20 a share on a cash basis for all your holdings and such other stockholders who want to get out.

I assume that on a deferred basis he would raise the price. I may have him in New York on March 22nd to meet you, Howard and Mac.

We have scheduled a directors meeting of MTPS and a stockholders and directors meeting of Teleservice for that day.

You are arriving on Thursday. I cannot meet you because a California client is coming in specially that day to see me for lunch. I could meet you in the afternoon with Howard as long as you are physically able to consider the various matters. Howard will meet you on the ship on the 19th and leave on the 20th for New York. He can fill you in with details of what has happened because I have been in frequent communication with him.

Rich will be away on a prior planned trip beginning the 15th, but nothing will be determined on the 22nd that will require his presence and, if anything should come up in the near future, I am sure he will be available for conference.

There does not seem to be any great problem in getting the cash for MTPS. You may have to wait 90 days for it.

Insofar as you going away on another trip, I think you have the means to do it and I am not too sure that your continued presence during the whole period is necessary because we can always reach you.

With kindest regards,

Very sincerely,

SP:cm

ARLINGHAUS EXHIBIT 11

MTPS

DDD

623a

666 East Ocean Boulevard / Long Beach, California 90802 / (213) 775-2367

SONDERLING BROADCASTING CORPORATION

March 20, 1968

Board of Directors
Modern Talking Picture Service, Inc.
1212 Avenue of the Americas
New York, New York 10036

Gentlemen:

You most probably are aware that our company has signed initial documents to acquire Modern Teleservice, Inc.

During the discussions we learned about the history of your company and were given general information concerning your company.

Having learned that the controlling stockholders of your company are considering its sale we are quite intrigued with the possibility of being able to acquire Modern Talking Picture Service along with Modern Teleservice and thereby put both companies again under the same roof.

Our company is interested in making acquisitions of such organizations which have a history of growth and continuous earnings, and are supervised by efficient and knowledgable management. We understand that these premises hold true with Modern Talking Picture Service.

During the discussions we had with several people we learned enough to make it possible for us to submit an offer to you for the company, or its assets, which we are outlining herewith.

We submit herewith a firm bid subject to the following qualifications to acquire all of the outstanding stock of Modern Talking Picture Service, Inc., its subsidiaries, if any, and or all of its assets for $2,800,000.00 cash. This offer is being made subject to verification of the financial statements and investigation, and the approval of the Board of Directors of our Company. We shall require financial statements and history for the past 10 years, a detailed statement for the fiscal year ending June 30, 1967, and a semi-annual statement ending December 31, 1967. We also wish to visit the major offices in Los Angeles, Chicago and

New York, and meet the chief executive officers currently under contract to the company.

For your information may we state that ours has been basically a broadcasting company since 1950. We currently operate nine radio stations in major markets. Our company went public in May of last year, its securities are listed on the American Stock Exchange. After going public we established a policy to expand our activities and broaden the scope of the company. Our first acquisition was a television station, WLKY-TV, in Louisville, Kentucky, which we purchased in January of this year for approximately $7,000,000.00. We are interested to expand into areas where we are knowledgable and can comprehend and understand the operations of a business which we wish to acquire.

Our financial history is excellent considering the size of our company. For references we can refer you to the First National City Bank of New York, Mr. William Herbster, vice president, 399 Park Avenue, Mr. Sigmund Wahrsager, General Partner of Bear Stearns & Company, 1 Wall Street, New York City. Bear Stearns & Company are the investment brokers who managed the public offering of our stock and continue to function as our investment bankers. Mr. Don Calabro, State Mutual Life Assurance Company of America, which company has provided us with long term financing since 1965.

We can also give you as further reference, The Massachusetts Mutual Life Insurance Company, and banking connections in the cities where our properties are located.

We trust that our offer will receive favorable consideration, and if so, we are prepared to proceed with due speed and diligence. I expect to be back in New York the first week in April, and will then be in a position to continue and complete negotiations.

Very truly yours,

Egmont Sonderling,
President

ES:de

RECEIVED
MAR 21 1968
DeWITT PEPPER & HOWELL

625a

DDD

AIR MAIL

SPECIAL DELIVERY

SONDERLING BROADCASTING CORPORATION
WOPA-FM
406 SOUTH OAK PARK AVENUE
OAK PARK, ILLINOIS 60302

ILL.

Mr. Sidney Pepper
DeWitt, Pepper & Howell
Attorneys at Law
120 Broadway
New York 5, New York

626a

PEPPER EXHIBIT HHHH

ltr 14 ml
1/5/69 ff

666 East Ocean Boulevard / Long Beach, California 90802 / (213) 775-2367

SONDERLING
BROADCASTING
CORPORATION

March 20, 1968

Board of Directors
Modern Talking Picture Service, Inc.
1212 Avenue of the Americas
New York, New York 10036

Gentlemen:

You most probably are aware that our company has signed initial documents to acquire Modern Teleservice, Inc.

During the discussions we learned about the history of your company and were given general information concerning your company.

Having learned that the controlling stockholders of your company are considering its sale we are quite intrigued with the possibility of being able to acquire Modern Talking Picture Service along with Modern Teleservice and thereby put both companies again under the same roof.

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We submit herewith a firm bid subject to the following qualifications to acquire all of the outstanding stock of Modern Talking Picture Service, Inc., its subsidiaries, if any, and or all of its assets for $2,800,000.00 cash. This offer is being made subject to verification of the financial statements and investigation, and the approval of the Board of Directors of our Company. We shall require financial statements and history for the past 10 years, a detailed statement for the fiscal year ending June 30, 1967, and a semi-annual statement ending December 31, 1967. We also wish to visit the major offices in Los Angeles, Chicago and

New York, and meet the chief executive officers currently under contract to the company.

For your information may we state that ours has been basically a broadcasting company since 1950. We currently operate nine radio stations in major markets. Our company went public in May of last year, its securities are listed on the American Stock Exchange. After going public we established a policy to expand our activities and broaden the scope of the company. Our first acquisition was a television station, WLKY-TV, in Louisville, Kentucky, which we purchased in January of this year for approximately $7,000,000.00. We are interested to expand into areas where we are knowledgable and can comprehend and understand the operations of a business which we wish to acquire.

Our financial history is excellent considering the size of our company. For references we can refer you to the First National City Bank of New York, Mr. William Herbster, vice president, 399 Park Avenue, Mr. Sigmund Wahrsager, General Partner of Bear Stearns & Company, 1 Wall Street, New York City. Bear Stearns & Company are the investment brokers who managed the public offering of our stock and continue to function as our investment bankers. Mr. Don Calabro, State Mutual Life Assurance Company of America, which company has provided us with long term financing since 1965.

We can also give you as further reference, The Massachusetts Mutual Life Insurance Company, and banking connections in the cities where our properties are located.

We trust that our offer will receive favorable consideration, and if so, we are prepared to proceed with due speed and diligence. I expect to be back in New York the first week in April, and will then be in a position to continue and complete negotiations.

Very truly yours,

Egmont Sonderling,
President

ES:de

PEPPER EXHIBIT EE

Class-Claimants'
Ex. 6-R is faxed
3/30/70 ajs.

630a

THE CHASE MANHATTAN BANK
National Association

1 Chase Manhattan Plaza, New York, New York 10015

March 20, 1968

Mr. Sidney Pepper
120 Broadway
New York, New York 10005

Dear Mr. Pepper:

We have not had occasion to follow Sonderling Broadcasting Corporation from an investment point of view and therefore any information we have is that which appears in the standard statistical services.

For the past five years the company has been expanding through the acquisition of radio stations and now operates a total of nine. In January of this year it was announced that it had acquired its first television station. The company is still a small unit, but considering the favorable outlook for the industry, it could prove to be an interesting speculation if it has the financial means available to continue growing through acquisitions.

Currently quoted around 26, the stock appears to be appraising earnings expectations rather liberally. Earnings for 1966 were $0.87 per share including special charges of $0.09. For the first nine months of 1967 net income before taxes was 20% higher than for the similar 1966 period, but only 3% higher after taxes and special items.

Very truly yours,

Ronald Lockwood

Ronald Lockwood
Investment Officer

RECEIVED
MAR 21 1968

DeWITT PEPPER & HOWELL

PEPPER EXHIBIT FF

Cross-Claimants'
Ex. 6-Q's for id.

1

6320 3/30/72 dcp

ROBINSON & COMPANY, INC. • 530 COOPER STREET • CAMDEN, N.J. 08102

MEMBERS THE NEW YORK STOCK EXCHANGE AND OTHER LEADING EXCHANGES • 966-3333

RES. MGR. STANLEY H. MOLOTSKY
CO.-MGR. ABRAHAM J. SALAMAN

March 20, 1968

RECEIVED
MAR 22 1968
DeWITT PEPPER & HOWELL

Mr. Sidney Pepper
120 Broadway
New York, New York

Dear Mr. Pepper:

At the request of Mr. Harris Shapiro I submit the following analysis of Sonderling Broadcasting (in brief) prepared by our research department.

1. The company operates an ethnic chain of radio stations.

2. Record of past performance is rated above average for the industry.

3. Recent acquisition of TV Station should add appreciably to earnings.

4. The company appears to have ambitious plans for expansion and acquistions.

5. Edmond Sonderling is considered an excellent executive, more than capable of expanding his company's operations in order to acheive the ambitious goals set forth by him.

In conclusion, we recognize Sonderling Broadcasting as a sound investment vehicle for capital gains and recommend the inclusion of this security in aggressive portfolios.

Sincerely,

Abe J. Salaman

Abe J. Salaman

AJS:ah
cc: Harris Shapiro

ARLINGHAUS EXHIBIT 1B

634a

OFFICE COPY

COMMONWEALTH CORPORATE DEVELOPMENT CO., INC.
2401 PENNSYLVANIA AVENUE · PHILADELPHIA, PENNSYLVANIA 19130

HARRIS A. SHAPIRO
President

March 21, 1968

Sidney Pepper, Esq.
DeWitt, Pepper & Howell
120 Broadway
New York, N. Y. 10005

Dear Mr. Pepper:

I am writing to confirm the understanding we have reached concerning the acquisition of the business or stock of Modern Talking Picture Service, Inc., by Sonderling Broadcasting Corporation.

If Sonderling Broadcasting Corporation acquires the business or stock of Modern Talking Picture Service, Inc., a fee or commission will be paid to us by the stockholders of Modern Talking Picture Service, Inc. and will be shared between us as outlined in this letter.

Upon the closing of the transaction we will be paid as our fee or commission, the excess purchase price paid by Sonderling Broadcasting Corporation over and above $2,500,000. Such fee is to be shared equally between us; provided, however, that your fee will be limited to a maximum payment of $100,000, and Commonwealth Corporate Development Co., Inc. shall be entitled to $100,000 plus the entire consideration paid in excess of $2,700,000 in the event the purchase price exceeds $2,700,000.

If the purchase price is paid in installments our fee will be paid in equivalent installments as the consideration is paid by Sonderling Broadcasting Corporation.

If this letter sets forth our understanding please

sign below under the word "Agreed".

Also, by executing this agreement, the stockholders of Modern Talking Picture Service, Inc. who have signed below agree to be bound by the terms of this agreement and to pay the fees and commissions provided for herein in accordance with the terms of this agreement.

Very truly yours,

COMMONWEALTH CORPORATE DEVELOPMENT CO., INC

By _____

AGREED:

_____
Sidney Pepper

The undersigned stockholders hereby agree to the terms of this transaction.

Dated: _____ _____

Dated: _____ _____

Dated: _____ _____

Dated: _____ _____

Dated: _____ _____

Dated: _____ _____

Dated: _____ _____

Dated: _____ _____

Dated: _____ _____

Dated: _____ _____

ARLINGHAUS EXHIBIT 12

CABLE: LESAVOCATS

DE WITT, PEPPER & HOWELL
ATTORNEYS AND COUNSELLORS AT LAW
120 BROADWAY, NEW YORK, N.Y. 10005
WORTH 4-4040

BENJAMIN P. DeWITT (1888-1966)
SIDNEY PEPPER
HARRY T. HOWELL
EDMUND H. COX

WASHINGTON, D.C. OFFICE:
1010 VERMONT AVENUE
(202) STERLING 3-3671

637a

March 22, 1968

Mr. Egmont Sonderling, President,
Sonderling Broadcasting Corporation,
666 East Ocean Boulevard,
Long Beach, California 90802.

Dear Mr. Sonderling:

I have received from Mr. Steve Weil, a copy of your letter of March 20, 1968 addressed to the board of directors of Modern Talking Picture Service, Inc. with your offer to acquire that company for $2,800,000.00 cash.

On behalf of Mrs. Frank H. Arlinghaus, as executrix of the estate of Frank H. Arlinghaus, and as custodian for her children, and on behalf of Mr. Howard H. Eberle, as trustee under an inter vivos trust for his benefit, the owners of close to 70% of the outstanding stock, I accept your offer.

We will be glad to take such other action as may seem desirable to you at or about the time of the execution of formal documents to implement our mutual intent to consummate the sale as outlined by you in your letter.

I look forward to having the pleasure of meeting with you again on your next visit to New York on April 2, 1968.

Very truly yours,

Sidney Pepper

SP:cm

approved
Rosalie Arlinghaus
Edward H. Eberle, Trustee

ARLINGHAUS EXHIBIT 21

639a

MODERN TALKING PICTURE SERVICE, INC.

Minutes of Special Meeting of Broad of Directors
held April 8, 1968

A special meeting of the board of directors was held at the office of the corporation, 1212 Avenue of the Americas, New York, New York, on the 8th day of April, 1968, at 10.30 A.M.

There were present the following directors:

ROSALIE M. ARLINGHAUS
EDMUND H. COX
HOWARD H. EBERLE
ARTHUR LANGE
CARL H. LENZ
WILLIAM H. MacCALLUM
WILLIAM M. OARD
SIDNEY PEPPER

constituting the entire board of directors of the corporation.

Mr. George Vickers, Secretary, was present at the invitation of the board of directors.

Mr. Lenz, President, acted as Chairman of the meeting and Mr. Vickers, Secretary, acted as Secretary of the meeting.

The Chairman stated that the meeting had been called at the request of Rosalie M. Arlinghaus and Howard H. Eberle and that notice of the meeting had been duly given to each director in accordance with the provisions of the by-laws.

Upon motion duly made, seconded and unanimously carried, it was

RESOLVED, that the request for the call of the meeting and the notice of meeting, together with the certificate of mailing of said notice, be filed with the minutes of the meeting.

The reading of the minutes of the prior meeting of March 22, 1968 was waived.

Sidney Pepper moved, seconded by Mr. Eberle, that the following

resolutions be adopted:

RESOLVED, that this board of directors does declare it advisable and most for the benefit of Modern Talking Picture Service, Inc. that Modern Talking Picture Service, Inc. be dissolved;

RESOLVED, that this Board of directors does declare it advisable and most for the benefit of Modern Talking Picture Service, Inc. that Modern Talking Picture Service, Inc. be completely liquidated.

Mr. MacCallum objected at length to the said motions. After a protracted discussion Mr. Pepper's motions were duly carried with Messers. Lenz, MacCallum and Oard voting in the negative and the other directors voting in the affirmative.

Mr. Pepper proposed on behalf of Mrs. Arlinghaus and Mr. Eberle a resolution as follows:

RESOLVED, that the corporation sell with the approval of Messers. Eberle or Cox, to Sonderling Broadcasting Corporation, an Illinois corporation, substantially all its assets and properties except the sum of $10,000.00 in cash to be retained by it to cover the expenses of liquidation and dissolution of the corporation and to the extent not used delivered to Sonderling Broadcasting Corporation, in consideration of (1) the assumption by Sonderling Broadcasting Corporation of all the liabilities and obligations, contracts and commitments of Modern Talking Picture Service, Inc., and (2) the payment of $2,800,000.00 in cash on or before May 15, 1968, of which an amount not to exceed 50% may be held in escrow on behalf of this corporation and Sonderling Broadcasting Corporation until January 2, 1969 to make good any damages to Sonderling Broadcasting Corporation by reason of any misrepresentations or breach of warranty in the contract of sale between this corporation and Sonderling Broadcasting Corporation with respect to the assets, properties, liabilities, contracts and commitments of this corporation and such other facts which counsel for Sonderling Broadcasting Corporation may request as a condition to the making of such contract and with $300,000.00 payable to Commonwealth Corporate Development Co., Inc. of Philadelphia, Pennsylvania, for its services in bringing about such sale and with the said $300,000.00 payable prorata only, as and when the consideration for such sale is received by this corporation free of the said escrow and with the understanding that Sidney Pepper, counsel and a director for the corporation, is to make no charge to the corporation for his services in connection with the said sale, but is to receive $100,000.00 from Commonwealth Corporate Development Co., Inc. and with such further provisions as may be requested

by counsel for Sonderling Broadcasting Corporation, which may be acceptable to Messers. Eberle or Cox.

The motion was seconded by Mrs. Arlinghaus and Mr. Eberle.

Mr. Pepper did not vote on the foregoing resolution.

The resolution was carried with Messers. Lenz, MacCallum and Oard voting against the resolution.

Upon motion of Mr. Pepper, seconded by Mrs. Arlinghaus and carried, it was

RESOLVED, that Mr. Eberle be and he is hereby elected a Vice-President and Assistant Secretary of the corporation to serve without compensation.

Mr. Eberle did not vote on the foregoing resolution.

Upon motion of Mr. Pepper, seconded by Mrs. Arlinghaus and carried, it was

RESOLVED, that Mr. Cox be and he is hereby elected a Vice-President and Assistant Secretary of the corporation to serve without compensation.

Mr. Cox did not vote on the foregoing resolution.

Upon motion of Mr. Eberle, seconded by Mrs. Arlinghaus and carried, it was

RESOLVED, that Mr. Pepper be and he is hereby elected a Vice-President and Assistant Secretary of the corporation to serve without compensation.

Mr. Pepper did not vote on the foregoing resolution.

Messers. Lenz, MacCallum and Oard voted against the resolutions electing the foregoing Vice-Presidents and Assistant Secretaries.

Upon motion duly made, seconded and carried, it was

RESOLVED, that this board of directors does declare it advisable that the certificate of incorporation of Modern Talking Picture Service, Inc. be amended to change the name of the corporation to F. H. Arlinghaus Corporation, and if the name F. H. Arlinghaus Corporation be not available as a corporate name, to such name as may be selected by Mr. Pepper.

Mr. MacCallum voted in the negative on the foregoing resolution.

Upon motion duly made, seconded and carried, it was

RESOLVED, that after the sale to Sonderling Broadcasting Corporation is consummated any officer be and he is hereby authorized to surrender this corporation's certificates of authority to do business in the States where it is presently doing business.

Mr. MacCallum voted in the negative on the foregoing resolution.

Upon motion duly made, seconded and carried, it was

RESOLVED, that this corporation surrenders the rights, privileges and franchises conferred upon it by the certificate authorzing it to transact business in the State of New Jersey, and hereby withdraws from the transaction of business in said State;

FURTHER RESOLVED, that the Secretary of this corporation be and he hereby is authorized and directed to certify to the Secretary of State of the State of New Jersey a copy of this resolution in order that the Secretary of State of the State of New Jersey may issue a certificate under his hand and seal evidencing the surrender of the rights, privileges and franchises conferred upon it and its withdrawal from the State of New Jersey.

Mr. MacCallum voted in the negative on the foregoing resolution.

Mr. Pepper stated that, if the stockholders consent to the sale to Sonderling Broadcasting Corporation, it will then be necessary to terminate at the time the sale becomes effective, the employment of all the officers and other employees of the corporation with the exception of Messers. Cox, Eberle and Pepper and suggested that in anticipation of such event appropriate resolutions be adopted.

Upon motion duly made, seconded and carried, it was

RESOLVED, that effective with the sale by this corporation of substantially all of its properties to Sonderling Broadcasting Corporation (a) all officers and employees with the exception of Messers. Cox, Eberle and Pepper, be separated from the service of the corporation and their employment by the

corporation fully terminated.

Mr. MacCallum voted in the negative on the foregoing resolution.

Upon motion duly made, seconded and carried, it was

RESOLVED, that the Secretary or any other officer of this corporation be, and hereby is authorized to certify to the Chase Manhattan Bank, N.A., the names of the individuals shown in Appendix A hereto, as the persons authorized to sign on the bank account of this corporation with the Chase Manhattan Bank (National Association) Rockefeller Center Branch (Account No. 038-2-000446X), and that after the individuals listed in Class 1 of Appendix A shall cease to be officers and employees of the corporation, from and after the delivery of a copy of this resolution to said bank, that any one of the individuals listed in Class 2 of Appendix A hereto, shall be the authorized signatories on said account as if said individuals were named in the most recent corporate resolutions presently on file with the bank, and the authority of the individuals named in said prior resolutions shall thereupon be terminated; provided, however, that said resolutions shall in all other respects remain in full force and effect with the exception that any of the persons named in Class 2 of Appendix A hereto, may act singly in any and all transactions with the said bank.

Appendix A

Class 1

Carl H. Lenz	President
William H. MacCallum	Executive Vice-President
George H. Vickers	Secretary and Treasurer

Class 2

Edmund H. Cox	Vice-President and Assistant Secretary
Howard H. Eberle	Vice-President and Assistant Secretary
Sidney Pepper	Vice-President and Assistant Secretary

FURTHER RESOLVED, that the authority of the officers named in Class 2 of the preceding Appendix A to act as aforesaid shall be effective only upon the delivery to the Chase Manhattan Bank, N.A., of a certificate of any one of the said officers that substantially all of the assets of this corporation had been sold to Sonderling Broadcasting Corporation.

Mr. MacCallum voted in the negative on the foregoing resolutions.

Upon motion duly made, seconded and carried, it was

RESOLVED, that the officers of the corporation be and they are hereby authorized to do any and all things, execute and deliver any and all papers and pay any and all amounts and take any and all action with the approval of counsel for the corporation, which they in their discretion shall deem necessary, proper and advisable to carry out the intent and effectuate the purposes of the resolutions this day adopted by the board of directors.

Mr. MacCallum voted in the negative on the foregoing resolution.

There being no further business to come before the meeting, upon motion duly made, seconded and carried, it was adjourned.

_____

Secretary of the Meeting

ARLINGHAUS EXHIBIT 14

646a KR

CONSENT

The undersigned, being shareholders of Modern Talking Picture Service, Inc., a Delaware Corporation (hereinafer called Modern) do hereby consent in writing, pursuant to Section 271 of the Delaware Corporation Law, to the sale by Modern of substantially all of its property and assets to Sonderling Broadcasting Corporation, an Illinois Corporation, for the sum of $2,800,000.00 in cash and the assumption of all of the debts, liabilities, obligations, contracts and commitments of Modern, upon such terms as may be approved by Howard H. Eberle and Edmund H. Cox, and Modern's payment to Commonwealth Corporate Development Co., Inc. of the sum of $300,000.00, which has agreed to pay $100,000.00 to Sidney Pepper, a director of Modern, and do hereby authorize such sale without further action by the Board of Directors of Modern.

The undersigned do further authorize any officers to execute and deliver any and all instruments and agreements approved by Edmund H. Cox or Sidney Pepper for completion of such sale.

This consent may be executed in one or more counterparts.

IN WITNESS WHEREOF the undersigned has caused this consent to be duly executed as of the 8th day of April, 1968.

Rosalie M. Arlinghaus, individually, as executrix of the estate of Frank H. Arlinghaus, and as custodian for Alix Ann Arlinghaus, Frank H. Arlinghaus, Jr. and John C. Arlinghaus

Howard H. Eberle, individually and on behalf of Howard H. Eberle and Howard H. Eberle, Jr., Trustees U/A dated 5/18/65

Ralph Del Coro

William H. MacCallum

Alexandra MacCallum Walcott

Harry W. Dogaards, Jr.

Anna Marie Schlereth

Elsie W. Cox

Richard H. Rough

Bertha A. Broglie

AFLINGHAUS EXHIBIT 15

CONSENT

The undersigned holders of one hundred percent (100%) of the outstanding shares of Modern Talking Picture Service, Inc., a Delaware corporation, hereinafter called "Modern", in consideration of the consents of the other shareholders hereto, do hereby respectively agree that:

1. Anything in the existing agreement between Modern and the holders of voting trust certificates for shares of its stock dated June 1, 1951 and amended June 25, 1959 and April 1, 1961, to the contrary notwithstanding, the said agreement as amended be hereby further amended by them and by Modern to permit the sale of 100% of said shares to Sonderling Broadcasting Corporation, an Illinois corporation, for the sum of $2,800,000.00 in cash upon such further terms as may be approved by Howard H. Eberle and Edmund H. Cox, Vice-Presidents of Modern, including a provision that an amount not to exceed 50% of said sum be held in escrow to January 2, 1969 to make good any damages to Sonderling Broadcasting Corporation by reason of any misrepresentation or breach of warranty with respect to the assets, properties, liabilities, contracts and commitments of Modern in the contract of sale to be entered into by them on behalf of the selling shareholders, and in any other provision for which counsel for Sonderling Broadcasting Corporation may request indemnification out of the said escrowed fund as a condition to such purchase.

2. Each of the undersigned agrees forthwith to deliver his or her Modern shares together with stock powers for the transfer of such shares endorsed by such shareholder to Sonderling Broadcasting Corporation with signature guaranteed by a bank or member of the New York Stock Exchange, to Pruitt, Pepper & Howell,

attorneys, 120 Broadway, New York, New York, to be held by them solely for the purposes of any such sale.

3. Of the moneys received by DeWitt, Pepper & Howell from Sonderling Broadcasting Corporation, they are hereby authorized to pay to Commonwealth Corporate Development Co., Inc. of Philadelphia, Pennsylvania, for its services in bringing about such sale the sum of $300,000.00 of which half shall be payable on January 2, 1969, with authority to pay to Sidney Pepper, counsel and a director of Modern for his services in connection with such sale $100,000.00 provided he is to make no charge to the selling stockholders for his services in connection with such sale.

4. The undersigned respectively authorize DeWitt, Pepper & Howell to invest the escrowed funds in a Chase Manhatten Bank certificate of deposit during the escrow period, with interest at a rate which the said Bank may by Federal Reserve Board Regulations pay upon the express understanding that the escrowed funds and the interest thereon, less any amounts payable therefrom to Sonderling Broadcasting Corporation by reason of the provision of paragraph 1 hereof shall be paid to them prorata as soon as possible after January 2, 1969.

5. The undersigned do further authorize any officers to execute and deliver any and all instruments and agreements approved by Howard H. Eberle, Edmund R. Cox or Sidney Pepper for completion of such sale and waive any action by the Board of Directors of Modern with reference to the agreement among the shareholders or in connection with the said sale.

6. This consent may be executed in multiple counterparts, each of which shall constitute an original, but all of which taken

together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have caused this consent to be duly executed as of the 25th day of April, 1968.

Rosalie C. Arlinghaus, individually, as executrix of the estate of Frank H. Arlinghaus, and as custodian for Alix Ann Arlinghaus, Frank H. Arlinghaus, Jr. and John C. Arlinghaus

Howard H. Eberle, individually and on behalf of Howard H. Eberle and Howard H. Eberle, Jr., Trustees U/A dated 5/18/65

William H. MacCallum

Harry W. Bogaards, Jr.

Elsie W. Cox

Bertha A. Broglie

Ralph Del Coro

Alexandra MacCallum Walcott

Anna Marie Schleroth

Richard H. Hough

PEPPER EXHIBIT YY

Cross-Claimants
Ex. UU-1 for id.
3/27/-- ops.
652a

MODERN

MODERN TALKING PICTURE SERVICE, INC. • 1212 AVENUE OF THE AMERICAS • NEW YORK, N. Y. 10036
212 765-3100

May 1, 1968

Mr. Sidney Pepper
25 Ridge Drive
Great Neck, N.Y.

Dear Sidney,

I received the enclosed yesterday and I believe it speaks for itself. If you have any questions or comments, I would be glad to hear from you.

Very truly yours,

George

George H. Vickers

GHV/ja
Encl.

CAHNERS PUBLISHING COMPANY INC.
CAHNERS BUILDING, 221 COLUMBUS AVENUE, BOSTON, MASS. 02116 536-7780

653a

ALVIN H. HARTMAN, VICE PRESIDENT

April 26, 1968

Mr. George H. Vickers
Secretary
Modern Talking Picture Services, Inc.
1212 Avenue of the Americas
New York, New York 10036

Dear Mr. Vickers:

As Secretary of the Board of Modern Talking Picture Services, Inc. we respectfully request that you bring to the attention of the Board of Directors of your company as promptly as possible the following matters:

(1) Cahners Publishing Company, Inc., Boston, Massachusetts, desires to acquire all of the outstanding common stock of the company now owned by the various stockholders.

(2) Cahners is prepared to offer a price of $3,000,000 in cash for all of this stock (a) provided that satisfactory employment arrangements can be made with the key management personnel, (b) subject to our further verification of the business, financials and prospects of the company as we understand them, and (c) subject to the preparation and execution of a satisfactory purchase agreement.

Will you please notify us of your wishes at your earliest convenience.

Sincerely,

Alvin H. Hartman

AHH/sab

PEPPER EXHIBIT JJJ

FROST & JACOBS

RECEIVED
MAY 13 1968
DeWITT PEPPER & HOWELL

- 655a

M. J. SIEBENTHALER
WILLIAM H. BEAMAN
R. O. KLAUSMEYER
CHARLES G. PUCHTA
JAMES J. HEADLEY
CHARLES A. ATWOOD
HENRY W. HOBSON, JR.
JOHN C. EGBERT, JR.
RALPH P. WANLASS
SHERMAN UNGER
DENNIS J. BARRON
JERRY L. COWAN
EARL R. HUFFMAN
JAMES S. WACHS
JOHN K. ROSE
BRUCE F. LOWE
HELEN [illegible]AHMANN
WILLIAM K. HOSKINS
RONALD E. HEINLEN
DONALD McG. ROSE
JAMES R. ADAMS
WILLIAM D. BASKETT III
JOHN C. NEWLIN
JOHN S. STITH
J. BRUCE ABEL
DAVID D. DODGE
LEE C. WILKERSON
ROBERT A. DIMLING
T. STEPHEN PHILLIPS
THOMAS A. LUEBBERS
JOHN A. WEST
THOMAS P. MENNERT
RANDOLPH J. STATIN

HUBERT T. CAMPBELL
FRANCIS L. DALE
COUNSEL

HENRY G. FROST, 1919-1951
CARL M. JACOBS, 1919-1967

2300 CENTRAL TRUST TOWER
CINCINNATI, OHIO 45202

TELEPHONE 513 621-6330
CABLE ADDRESS "FROSTJAC"

May 10, 1968

Sidney Pepper, Esquire
Director
Modern Talking Picture Service, Inc.
c/o DeWitt, Pepper & Howell
120 Broadway
New York, New York 10005

Dear Mr. Pepper:

I am authorized, on behalf of my clients, to offer to purchase the shares of the common stock of Modern Talking Picture Service, Inc. tendered at a price of Twenty-Seven Dollars ($27.00) per share, subject to the terms and conditions described below.

(1) This offer will expire at 5:00 P.M. Eastern Standard Time, May 24, 1968 ("Expiration Date"), and tenders must be made prior to said time. Purchaser reserves the right to extend the offer up to an additional thirty (30) days beyond said time by notice to the Agent prior to the Expiration Date.

(2) That One Hundred percent (100%) of the outstanding 94,500 shares be tendered prior to the Expiration Date.

(3) Purchaser reserves ten (10) days from the Expiration Date to verify the books, records and assets of Modern Talking Picture Service, Inc.

(4) Subject to the satisfactory verification stated above, checks will be presented in New York City on Friday, June 7, 1968 or two weeks after Expiration Date, which ever is later.

(5) To accept this offer, holders of stock of Modern Talking Picture Service, Inc. should either

(a) send an accompanying Letter of Transmittal, a form of which is enclosed, properly completed and accompanied by the stock certificates in proper form for transfer with signatures guaranteed; to The First National Bank of Cincinnati, Agent, Corporate Trust Division, Attention: H. A. Burgett, P. O. Box 1118, Cincinnati, Ohio 45201; or

DEFENDANT'S EXHIBIT

(b) request their bank or broker to effect the transaction for them.

(6) To accommodate stock holders, stock will be deemed properly tendered if

(a) a properly executed Letter of Transmittal, accompanied by certificates of Modern Talking Picture Service, Inc., has been deposited with a commercial bank or trust company in the continental United States or with a member firm of any Registered National Securities Exchange or member of the National Association of Securities Dealers, Inc.; and

(b) the Agent shall have received from such bank, trust company, firm, or member, prior to the Expiration Date, a letter or telegram giving the name of the registered owner, the number of shares involved, the certificate numbers of the certificates representing said shares, and stating that such deposit has been made and has been forwarded to the Agent; and

(c) such material is thereafter in fact received by the Agent within five (5) days of such communication.

A tender shall be deemed made as of the time of receipt by the Agent of the certificates and accompanying Letter of Transmittal, or telegram or letter described above.

(7) Facsimile copies of the Letter of Transmittal will be accepted.

In addition, my clients have authorized me to make an alternate offer for One Hundred percent (100%) of the assets of Modern Talking Picture Service, Inc. for $2,551,500.00 cash, of which an amount not to exceed Forty percent (40%) may be held in escrow until December 31, 1968 if there is any question as to the existence of assets or the ability of Modern Talking Picture Service, Inc. to convey them to the purchaser. This offer shall expire at 5:00 P.M., May 24, 1968.

You are directed to The First National Bank of Cincinnati, Attention: R. H. Brooks, telephone 513/381-3300, Extension 342, for credit verification.

Very truly yours,

Sherman Unger

SU:ll
Enclosure

PEPPER EXHIBIT GGG

658a (2)

MODERN

MODERN TALKING PICTURE SERVICE, INC. • 1212 AVENUE OF THE AMERICAS • NEW YORK, N. Y. 10036
212 765-3100

May 10, 1968

Mr. Howard H. Eberle
1334 N.W. 14th Court
Boca Raton, Florida

Dear Mr. Eberle:

I understand that a written offer has been sent to you by Mr. Sherman Unger of the firm of Frost & Jacobs in Cincinnati proposing to purchase your shares of Modern Talking Picture Service, Inc. stock for $27.00 per share.

I am writing this letter to tell you that Mr. Unger's offer has the support of a number of members of Management, and we seriously urge that you consider it carefully and that you accept it.

Carl Lenz, who is in Europe at the moment, knows of Mr. Unger's offer and is acquainted with his associates and their plans for the Company. Carl asked me to tell you that he feels the price offered is fair, and that in his judgment the Company's best prospects would be developed under the ownership of Mr. Unger and his associates. These men intend to retain the Company's individual identity and build upon it to exploit its capabilities.

Also joining Carl and me in this recommendation are Ralph Del Coro, Guilford Kater, Fontaine Kincheloe, Richard Rogers - all Vice Presidents - and George Vickers, Treasurer.

Be sure to note that Mr. Unger's offer of $27.00 per share for your stock is what you would actually receive. There is no finder's or broker's fee, and there is no requirement for an escrow reserve to be held out of your money pending complete buyer satisfaction.

Mr. Unger's group will wish to examine our accounts, however the preliminary information he has is accurate, and I feel certain that his examination will not disclose any unfavorable conditions to interfere with prompt closing and payment to you.

Yours truly,

William M. Oard
Vice President

WMO:j

Mr. Howard H. Eberle
Boca Raton, Florida

May 10, 1968

cc: Alexandra Walcott
Bertha A. Broglie
Ralph J. Del Coro
Richard M. Hough
Elsie W. Cox
Anna Marie Schlereth
Harry W. Bogaards, Jr.
Howard H. Eberle, Jr.
W. H. Mac Callum
Rosalie M. Arlinghaus
Sidney Pepper
Edmund Cox
Arthur Lange
C. H. Lenz
G. C. Kater
F. Kincheloe
R. H. Rogers
G. Vickers

MODERN

ARLINGHAUS EXHIBIT 1

for id. 3/27/79

661a

CASEY, LANE & MITTENDORF
26 BROADWAY
NEW YORK, N.Y. 10004

SAMUEL M. LANE (1900-1967)
CONSTANTINE MITTENDORF (1913-1961)
EDWARD G. BEIMFOHR
JAMES J. CASEY
R. LEIGH DUCHLER
RYDER HENRY
WILLIAM JORDAN, JR.
WILLIAM E. KELLY
JOHN R. MAHONEY
KEITH M. MOFFAT
CLAUS MOTULSKY
DAVID ORLIN

WHITEHALL 3-3000
TELEX: 422039
CABLE ADDRESS:
CALAMIT, NEW YORK

EUROPEAN OFFICE
56 GROSVENOR STREET
LONDON W.1.
GROSVENOR 3112
CABLE ADDRESS:
CALAMIT, LONDON

RESIDENT PARTNERS
ROGER H. LLOYD
GEORGE J. PHOCAS

May 23, 1968

Sidney Pepper, Esq.
Messrs. DeWitt, Pepper & Howell
120 Broadway
New York, New York 10005

Re: Rosalie M. Arlinghaus
Estate of Frank H. Arlinghaus
Modern Talking Picture Service, Inc.

Dear Mr. Pepper:

It is desirable to put down in writing the substance of our conversation during the meeting held in your office yesterday, May 22, 1968.

The meeting was attended by yourself, Mrs. Arlinghaus, Messrs. Ould and Vickers for the Corporation, and Mr. Jensen and the undersigned, representing Mrs. Arlinghaus in her personal and representative capacities.

At the outset of the meeting, I informed you that Casey, Lane & Mittendorf had been retained by Mrs. Arlinghaus henceforth to act as her personal attorneys and as attorneys for the Estate and that DeWitt, Pepper & Howell have been discharged.

I also informed you that the purpose of our coming to your office was to demand the books, records and papers of the Corporation and of the Estate as well as Mrs. Arlinghaus' stock certificates. The previous day you had refused to turn over the Corporation's books and records to Mr. Vickers, who demanded them on behalf of the Corporation, and refused to turn over Mrs. Arlinghaus' stock certificates. You informed me you had not altered your position since speaking with Mr. Vickers. Before turning over any of the books, papers and certificates in your possession, you want payment

of $100,000 as compensation for the work done on the contemplated sale to Sunderling. You stated that such work was done over and above your retainer and that, while the directors have not expressly agreed to pay that sum, at least some of the directors have been apprised of your claim.

You thereupon told us that you do not agree that you have been paid in full for your services rendered to the estate. You stated that what has happened is that Mrs. Arlinghaus has refused to pay more and that you have indicated to her that you won't press the matter. There is a separate contingent retainer open for services which you are rendering in a dispute with the Internal Revenue Service.

You said that it is not clear whether the obligation to pay the $100,000 is a joint obligation of the Corporation and the stockholders but that it should probably be so considered. You made the point that you wanted to be paid by somebody. The tax consequences flowing from payment by the Corporation are different from those flowing from payment by the stockholders. The tax liability would be greater in the latter case.

Finally, you said that you estimate your disbursements to be some $10,000 and that you would accept a bond in the principal amount of $110,000 as substitute security for the corporate books, records and papers and Mrs. Arlinghaus' stock certificates and the papers belonging to her in her personal and representative capacities.

I informed you that, without prejudice to your claim that you are entitled to payment of $110,000, and without conceding that you are entitled to anything, we would take your statements under advisement.

Please inform us promptly if you are of the opinion that the foregoing is incomplete or inaccurate in any respect.

Very truly yours,

William E. Fitelson

WEK:mv

ARLINGHAUS EXHIBIT 2

Cross-Claimants'
Ex. B for id. 3/28/72 cfs.

664a

DE WITT, PEPPER & HOWELL
ATTORNEYS AND COUNSELLORS AT LAW
120 BROADWAY, NEW YORK, N.Y. 10005
WORTH 4-4040

CABLE: LESAVOCAT

BENJAMIN R. DEWITT (1869-1965)
SIDNEY PEPPER
HARRY E. HOWELL
EDMUND H. COX

WASHINGTON, D.C. OFFICE:
1010 VERMONT AVENUE
(202) STERLING 3-3871

May 24, 1968

William E. Kelly, Esq.,
Casey, Lane & Mittendorf, Esqs.,
26 Broadway,
New York, New York 10004.

Re: Rosalie M. Arlinghaus
Estate of Frank H. Arlinghaus
Modern Talking Picture Service, Inc.

Dear Mr. Kelly:

I have your letter of May 23, 1968. Your letter is only partially correct as to what was said at our meeting.

I do not believe that at this time a statement of what was said at our meeting is called for.

Very truly yours,

Sidney Pepper

SP:cm

PEPPER EXHIBIT OOO

1017

SPECIAL MEETING

OF THE

BOARD OF DIRECTORS

OF

MODERN TALKING PICTURE SERVICE, INC.

HELD AT

THE RESIDENCE OF

MRS. ROSALIE ARLINGHAUS

RUMSON, NEW JERSEY

ON

MAY 24, 1968

COMMENCING AT

5:40 O'CLOCK P.M.

ALLCOURT REPORTERS, INC.
ACCURATE COVERAGE OF JUDICIAL PROCEEDINGS AND FEDERAL HEARINGS
195 BROADWAY • NEW YORK, N.Y. 10038
227-6377

10/2/73 Del Patterson Coll. ... 78

P R E S E N T:

MR. C.H. LENZ.

MR. WILLIAM OARD.

MR. WILLIAM H. MacCALLUM.

MR. ARTHUR LANGE.

MR. GEORGE VICKERS.

MRS. ROSALIE ARLINGHAUS.

EDMUND COX, ESQ.

WILLIAM E. KELLY, ESQ., and
PREBEN JENSEN, ESQ., of
Messrs. Casey, Lane & Mittendorf,
26 Broadway
New York, N. Y. 10004

oOo

ALLCOURT REPORTERS, INC.

PROCEEDINGS

MR. LENZ: I think we can proceed.

I would like to call this special meeting of the Board of Directors to order.

The first order of business would be the reading of the minutes of the meeting of April 8, 1968.

MR. McCALLUM: I move we waive the reading of the minutes of the last meeting.

MR. COX: I second the motion.

MR. LENZ: All in favor?

MR. LANGE: Are we going to accept the fact that there were minutes?

MR. LENZ: Yes, there were minutes.

MR. LANGE: We are just waiving the reading of them?

MR. LENZ: Yes.

MR. LANGE: As I understood it, the minutes weren't very good. I haven't seen them yet.

MR. LENZ: Nor have I, but we are waiving the reading of them, and I believe there is a resolution forthcoming that will take care of what you are thinking of.

MR. LANGE: Thank you.

Aye; I vote.

ALLCOURT REPORTERS, INC.

MR. LENZ: All in favor?

(All ayes.)

MR. LENZ: Opposed?

(No response.)

MR. LENZ: So ordered.

The Board will entertain resolutions related to the special reason for which we have gathered.

MR. OARD: Mr. Chairman, I want to report to the Board briefly on the recent events in connection with the proposed purchase by Sonderling.

As all of you presumably may know, Mr. Hough brought a complaint in the Chancery Court of Delaware, as a result of which a temporary injunction has been issued, preventing the sale of Modern Talking Picture Service assets to Sonderling Broadcasting Corporation as authorized by us on April 8th.

The time for such sale has expired, and we are advised that Sonderling has abandoned its intention to continue negotiations.

For those of us who have not seen it, this is a Xerox copy of today's Wall Street Journal page announcing that.

We are further advised that Modern has no liabilit toward Sonderling arising out of these events.

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We do have a transcript of the complete hearing, if any director would care to read it.

I think in view of this, it's appropriate to rescind the resolutions of the Director adopted April 8th, 1968 in preparation for the sale to Sonderling.

I therefore propose this resolution:

RESOLVED, that all resolutions adopted at the Board Meeting of April 8, 1968 be, and they hereby are, rescinded.

MR. LENZ: Is there a second to that?

MR. LANGE: I will second that.

MR. LENZ: All in favor?

(Ayes.)

MR. LENZ: Opposed?

MR. COX: I am not here, urging any sale to Sonderling. I am here as a Director of the corporation. I have not a nickel's interest in this whole transactio

This particular transaction is still subject to a court proceeding.

Very frankly, if you want my opinion as an attorney, I doubt the success of Sonderling.

On the other hand, there has been no definite conclusion in the litigation.

I think that the lapse of time itself, in effect,

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terminated the principal resolution.

I am perfectly willing to vote in favor of all other resolutions. I would prefer not to vote on that particular resolution. I will vote in favor of all the other resolutions, but as to that, since its time has lapsed by time and terminated and since it's still in litigation, I wish to abstain from voting on that resolution.

MR. LENZ: Your comments will be duly noted.

Since the majority is in favor of the resolution, be it so ordered.

Any other resolutions forthcoming in conjunction with this special meeting?

MR. OARD: Mr. Chairman, each shareholder and each director has received a copy of an offer, dated May 10, 1968, from Mr. Sherman Unger of Frost & Jacobs on behalf of his clients.

I am advised that the following shareholders have tendered their shares, namely:

Harry Bogaards; William MacCallum; Alexandra MacCallum Walcott; Anna Herles Schlereth; Ralph Del Coro; Richard M. Hough; and, Elsie Cox.

I am further advised that Bertha Broglie has written Mr. Unger, accepting his offer, and that she

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plans to tender her shares when she returns from a vacation next Monday.

Mrs. Arlinghaus has told me that she is willing to tender her shares, but that she has been unable to secure them from Mr. Pepper.

Someone here may know what Mr. Eberle's intentions are, as well, in this matter.

As I understand the existing agreement between Modern and its shareholders, the corporation has the right to purchase any shares offered for sale.

In order to eliminate any hindrance to our shareholders wishing to tender their shares to Mr. Unger, I propose the following resolution. I have copies here for anybody that cares to have them.

RESOLVED, that with respect to Modern Talking Picture Service, Inc., stock tendered under the terms of an offer dated May 10, 1968 from Mr. Sherman Unger, the President be authorized to waive the rights of the corporation to purchase shares under the existing agreement between Modern and holders of voting trust certificates and/or shares of stock, dated June 1, 1951 and amended June 25, 1959 and April 1, 1961, anything in said agreement to the contrary

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notwithstanding.

MR. LENZ: You have heard the resolution. Is there a question on the motion?

MR. COX: I would just like to make a comment in connection with that.

It is also my understanding that the corporation has had communications, and communications have been sent to the Board of Directors in connection with a better offer than the offer of May 10, 1968; substantially higher in price.

In view of my duty as a Director and the fiduciary relationship to the stockholders in which it is my obligation to obtain the best price possible for the stockholders, I would oppose this resolution.

MR. LENZ: By advice of counsel, the question is, are you specifically talking about the Cahners' offer?

MR. COX: As you know, there have been two offers at a better price. There was also an offer from MGM.

MR. KELLY: Any statement should not be "as you know."

I think there ought to be a complete statement on the record of any offers that have been made, even though one or more of the directors may know something about these offers. They should be brought out and

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discussed at the meeting.

If there is something else that Mr. Cox knows of, he ought to discuss it.

MR. COX: I have a letter, a copy of a communication to Mrs. Rosalie Arlinghaus -- you probably have the original -- dated April 22, 1968, and I am not favoring any particular offer - get me right.

I have previously stated that in my opinion an offer of approximately twenty-six and a half dollars a share would constitute a fair offer for the stock of this corporation, and I have not changed my opinion of that in the slightest.

On the other hand, this is a copy of a letter dated April 22, 1968 from Jason Rabinowitz to Mrs. Arlinghaus, in which they offer a deal in the area of three million dollars, payable on MGM common stock.

If the Directors would like to see that particular offer --

(Mr. Cox handing document to Mr. Kelly.)

MRS. ARLINGHAUS: I have never heard of it; never saw it. I don't know who Babowitz is or whoever it is.

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MR. KELLY: It is addressed to Mrs. Rosalie Arlinghaus, signed "Sincerely yours, Jason Rabinowitz," with a carbon copy to William MacCallum.

I don't know whether you want to read this into the record or not, but in view of Mrs. Arlinghaus' statement that she does not know about the letter dated April 22, 1968 --

Have you opened your mail since you returned?

MRS. ARLINGHAUS: Yes.

MR. KELLY: Did you find this letter?

MRS. ARLINGHAUS: No.

MR. KELLY: You might look at it.

(Mr. Kelly handing document to Mrs. Arlinghaus.)

MR. COX: I would like to merely bring it to the attention of the Board of Directors, that there has been an offer by Metro Goldwyn-Mayer of three million dollars.

MR. KELLY: You started off by saying "as you know," and it isn't "as you know."

MR. COX: I'm very sorry; I thought the Board of Directors did know about this.

MR. KELLY: How would the Board of Directors know, if it was addressed to Mrs. Arlinghaus? She is only

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one director and one shareholder.

MR. COX: Mr. Eberle also received a copy.

MRS. ARLINGHAUS: I could have been reached ship-to-shore.

MR. COX: A copy of this letter has been sent to Mr. Eberle.

MR. KELLY: In view of the fact that the mail isn't getting through, Mr. Cox, I think it should --

MR. LANGE: It says, "Talked to --" is this true?

MR. LENZ: Yes, it is. At the time of the Sonderling acceptance of the option, I had told them that there would be other offers coming through, but at that time, in turn, it was not given any attention or notice and the Sonderling option was approved by a majority.

MR. COX: My recollection is that Mr. MacCallum was the one that brought up MGM at that meeting.

MR. MacCALLUM: I think that's right.

MR. OARD: I'd have to question whether that pric constitutes an offer. I would say it's an invitation to play tennis.

MR. COX: Surely the Chancellor in cated if an offer is made, please give me a chance to meet it or beat it.

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MR. LENZ: But isn't it true that this special meeting was called for the specific purpose of considering the Unger offer, which was communicated to every member of the Board of Directors and every owner?

MR. KELLY: Mr. Cox, I understand your legal position, but the point has just come out where you produce a letter addressed to one of the directors, dated April 22nd. This Director, Mrs. Arlinghaus, is here; she says she never got the letter.

Whatever the situation is, it seems to me that there hasn't been a disclosure of the details of this particular situation.

MR. COX: Before there was an attempt to paraphrase the letter -- I think I indicated in Wilmington that that's not my policy; I am very happy to produce the entire letter.

MR. LENZ: It might also be that even had Mrs. Arlinghaus received the letter, that she would not have been interested. She has manifested an interest in the Unger offer, and I think that --

MR. COX: I am merely trying to follow out my duty as a Director, Mr. Lenz.

MR. LENZ: I understand that.

MR. KELLY: May I suggest that that particular

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letter, a copy of which has been produced and which Mrs. Arlinghaus says she has never received and which she now sees for the first time and reads for the first time, be marked in the minutes of the meeting.

MR. OARD: The tender of the resolution that's still before us is actually not to accept a particular offer, because it relates to stock purchase. It's merely to make it convenient and possible for those shareholders who are interested in tendering shares, to do so, and it, in no way, endorses the Unger offer over and above any other.

MR. LENZ: That's true. That's the proposal on the floor at the moment.

MR. COX: May I make a comment on that very briefly, Mr. Lenz.

In the event there is not a hundred percent stock approval of any particular offer, if the corporation has the right to purchase a stock at a price less than the final offer, you are depriving that stockholder of a certain amount of money.

I think as Directors, as I indicated before, in view of our fiduciary relationship to our stockholders it's essential that we get the highest price feasible for the stockholders, taking into consideration other

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aspects of the transaction.

I am not trying to say it's just a question of price.

MR. OARD: The facts at hand are that the Unger offer was for $27 a share and the corporation's rights are in the neighborhood of $18 a share, if I remember correctly, so that the Unger offer is clearly better than the corporation's right to purchase shares.

MR. COX: You are waiving the privilege of a stockholder to say to the corporation, "Look, I am willing to sell it to you for the same price that I am being offered by somebody else."

MRS. ARLINGHAUS: All that's been available has been tendered.

MR. OARD: Can we move the question?

MR. LENZ: I do feel we must move the proposal. Would you restate it, please.

MR. OARD: RESOLVED, that with respect to Modern Talking Picture Service, Inc., stock tendered under the terms of an offer dated May 10, 1968 from Mr. Sherman Unger, the President be authorized to waive the rights of the corporation to purchase shares under the existing agreement between Modern and holders of voting trust

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certificates and/or shares of stock, dated June 1, 1951 and amended June 25, 1959 and April 1, 1961, anything in said agreement to the contrary notwithstanding.

MR. LENZ: You have heard the proposal. All those in favor, indicate by saying "aye."

(Ayes.)

MR. LENZ: Opposed?

MR. COX: I am opposed for the reasons stated.

MR. LENZ: So ordered.

Any further business to be brought before the Board?

MR. OARD: Mr. Chairman, Mr. Unger's May 10th letter contains an alternative offer for the purchase of the assets of the corporation. In that it appears that some shares may be held by Mr. Pepper beyond the time allowed for tender.

I propose that the following two resolutions be adopted. We have extra copies, Mr. Jensen.

1. RESOLVED, that Mr. Oard and Mrs. Arlinghaus or her designee are hereby authorized to prepare for submission to the Board of Directors and shareholders a proposed plan of dissolution and liquidation of the

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PONDERANDA SUNT TESTIMONIA

corporation.

There is another, but I suppose we can do one at a time.

MR. KELLY: You can read them together.

MR. OARD: The second one is:

RESOLVED, that Mr. Oard and Mrs. Arlinghaus or her designee are hereby authorized to negotiate with Mr. Sherman Unger for the sale of the business and assets of the corporation substantially on the terms set forth in the letter presented to this meeting, the final terms and conditions of such sale to be subject to the approval of the Board of Directors and shareholders.

I see it refers to a letter presented to this meeting, which hasn't officially been done.

MR. LENZ: At this point, I feel that it would be very much in order to ask Mr. Unger to step in the room for a moment, and for the benefit of the Directors, give his indication of interest.

(Mr. Unger called in.)

MR. KELLY: Mr. Unger is now present in the room.

MR. OARD: There are two resolutions to be considered.

ALLCOURT REPORTERS, INC.

1. RESOLVED, that Mr. Oard and Mrs. Arlinghaus or her designee are hereby authorized to prepare for submission to the Board of Directors and shareholders a proposed plan of dissolution and liquidation of the corporation.

2. RESOLVED, that Mr. Oard and Mrs. Arlinghaus or her designee are hereby authorized to negotiate with Mr. Sherman Unger for the sale of the business and assets of the corporation substantially on the terms set forth in the letter presented to this meeting, the final terms and conditions of such sale to be subject to the approval of the Board of Directors and shareholders.

MR. LENZ: And we asked you in so that you might just make a few remarks of your intent and degree of interest.

MR. UNGER: Thank you, ladies and gentlemen.

I suppose the very first thing I should point out is that the asset offer contained in my letter of May 10th would expire just about at this moment, but I am authorized by my clients to extend it throughout the end of this meeting so that if this resolution is

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approved, we can pass into negotiating the detailed contract.

The interest that we have in the company is an interest that developed last December.

I have had, at one time or another, an opportunity to discuss this with a number of the people present at this meeting today.

Myself and my clients are interested as investors. We are not interested in making the forum or direction of Modern Talking Picture Service, but are interested in allowing it to maintain its separate corporate identity.

If we must go through a set acquisition approach as opposed to stock, we will still form another corporation, put everything into it and proceed the same way it's going now.

It is our intention to work with the present management, and we have no designs or plans to change anything that we have seen.

We have had, since last December, to analyze the company, to meet its personnel. It fits our interests as an investment, and we feel we would be quite happy working with it in its present form.

I will be glad to answer any questions anyone may

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have.

It is our desire to proceed with the acquisition as quickly as possible, to close.

As I indicated in my letter of May 10th, we have all of the financial commitments made; we are prepared to go forward.

If it were possible, we would be delighted to close this evening.

If anyone has any questions, I'd be pleased to answer them.

MR. COX: There has been another offer of three million dollars. Are you prepared to top that?

MR. UNGER: I haven't seen that offer. Are you prepared to show it to me?

MR. COX: Sure. I have it right here.

(Mr. Cox handing document to Mr. Unger.)

MR. COX: In fact, there are two offers; one for cash and one for stock.

MR. UNGER: Would you like to identify it?

(Mr. Cox handing document to Mr. Kelly.)

MR. KELLY: You were going to say something?

MR. UNGER: Yes. What's been handed me is a Xerox

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copy of a purported letter to Mr. George Vickers, dated April 26, 1968. It appears to have, in addition to its Xeroxing, some typing that indicates a blind copy to Mrs. Arlinghaus, and indicates that an R.L. Alvin Hartman apparently is identified in ribbon as opposed to Xerox. It states, in essence, as I read it, that someone is prepared to offer a price, provided satisfactory employment arrangements, et cetera, can be reached.

My offer is firm. The money is in the bank and I have no contingencies.

I don't think that this is an offer I have to meet, Mr. Cox. I don't think it's an offer.

MR. COX: Mr. Cahners is in the other room today.

May I ask the indulgence of the Board of Directors to have him come in?

MRS. ARLINGHAUS: One thing at a time.

MR. LENZ: Certainly, we will hear Mr. Cahners, but I don't think at this point it's in order. We are now asking Mr. Unger for his plans and his interest in the company.

For those who may not know, Mr. Unger became known to us simply because one of our Vice Presidents, Dan Kater, and he have been life-long friends. As a

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matter of fact, Mr. Unger was Mr. Kater's best man, and some years later, I understand that the Katers became the godparents of one of your children, (addressing Mr. Unger) and we have known Mr. Unger, most of us, for some several years.

We know, in turn, that this man has a legal practice and plans to continue it. He is not going to be actively working at the business, but he likes the business for what it offers as an investment. More so, he likes the people that he has been able to get to know in Modern, and I think that -- correct me if I am wrong, but this is the outline you gave me as the crux of the basis of your entire interest as an investor, because there are other investments that can be made in this world.

MR. UNGER: That is right, Mr. Lenz.

One of the things that interests us is that both the company -- it's a service company, but it has a unique group of people, what I like, admire and enjoy being with. This combination makes it a desirable investment for us. Without the people, we wouldn't be interested in the company. We can't run it. We will invest in it, we will follow it, but the present management will have to run the company.

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Let me also volunteer that my offer doesn't contemplate, either directly or indirectly or hidden, any finders' fees, brokers' fees or any additional moneys to be paid to anyone; that I was told about the company through one of the employees. He has asked nothing from me and I have committed nothing to him for it.

MRS. ARLINGHAUS: Gentlemen don't usually do that, Mr. Unger.

MR. UNGER: No.

MR. KELLY: I was going to ask you that, Mr. Unger just for the record, but I am delighted you made that statement voluntarily.

MR. LENZ: Does anyone else care to ask Mr. Unger any questions?

MR. OARD: I would like to comment again, for the record, that Mr. Unger's offer has been endorsed in writing by seven members of the management, all officer of the corporation, and copies sent to the Directors, I believe.

MR. COX: Yes; we received a copy of his offer.

MR. LENZ: Yes, and I think for those who are not part of the management team sitting here, they could well understand our high interest, knowing the basis

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and philosophy of the founder of the company, and this, to us, representing an opportunity to carry it on, we, naturally, have this 'high' as our number one desire. There is no doubt about it. We know there have been other offers; other offers have been sent, and we have tried to deal with people very fairly.

As a matter of fact, officially, the company was never really for sale. Mrs. Arlinghaus said, if, in turn, the right individual or company comes along where there is an equitable price paid and a buyer who is suitable --

MR. ARLINGHAUS: May I interject?

I also said it involves more than dollars and cents.

MR. LENZ: You certainly did, and so this is why, actually, we never turned to any business broker and said, "Find a buyer for us." It was unnecessary.

As a matter of fact, in this day and age of acquisitions as a common practice of business, every company has people seeking them, and we have had more than our share, I think, surprisingly so, particularly since we haven't advertised.

I might say, very candidly, that I have a high regard for the Cahners Publishing Company, and I have

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spoken to both Mr. Cahners and Mr. Hartman, and I will only say this, that I indicated that we, the management team, favored a certain deal and we would certainly hope that this could eventually result in a sale in which we, the management team, would also all participate, because this is our plan. All of us are putting up our life savings with Mr. Unger.

Failing that, I said, we would be very happy to talk to anybody and we really feel we must take this one thing at a time in the situation, and the debacle of the past was a lack of consideration of the management team and some gross misunderstandings.

However, I think, Mr. Unger, we clearly understand your interest and your reasons for your interest and we appreciate your presence here.

MR. UNGER: Thank you for your consideration.

MR. COX: May I also say, for the record, that I don't question Mr. Unger's sincerity.

MR. UNGER: Thank you, Mr. Cox.

MR. LENZ: There are two motions, or a joint motion, on the floor --

MR. COX: On the question, Mr. Chairman, before voting on the motion, I would again ask the indulgence of the Board of Directors to listen to Mr. Cahners,

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because actually our obligation as Directors to the stockholders is to obtain as much money for them as possible that is not going to wreck th corporation.

MR. LENZ: Well, Mr. Cox, this becomes an unending little drama, if we continue to go in this fashion, simply because I feel that I can speak for the management group in that this offer of Unger's and what it holds out, and remember, it is not an unselfish one, because we are all putting our money up too, is our principal desire and, in turn, if another offer comes along and the management team has the support of Mrs. Arlinghaus and we feel that it isn't for us, then we have simply, once again, wasted a lot of time.

MR. COX: May I point out that it's your duty, as a Director, entirely apart from your feelings as an officer, to entertain all offers, and that that was the basis of the suit in Wilmington.

MR. LENZ: There is no finalization totally to the motion before the Chair, and I think that this should be a completed issue of business before we go into reasons for which this meeting was not held, basically, so I must call for a vote on the proposal before the Board.

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MR. COX: Has the Board before it, Mr. Lenz, the two offers, one for three million dollars and one where they said in the area of three million dollars at the time this vote was taken?

Will you acknowledge those offers are before the Board?

MR. KELLY: I wouldn't recommend to the Board that they acknowledge any such thing.

There are certain things before the Board that they have spoken about.

If you care to make mention of any others, you may do so.

MR. COX: May I report to the Board of Directors that Mr. Cahners is here; he has made an offer of three million dollars for the assets of this corporation; that he has offered to interview management and to make arrangements with management and that that offer is considerably higher than the Unger offer, and I am calling that specifically to the attention of the members of the Board of Directors, calling their attention to their obligations as Directors.

MR. KELLY: The Chairman has already said he will hear Mr. Cahners after this particular piece of

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business is taken care of, and since there is nothing final before the Board, I would recommend that they deal with the resolutions one at a time.

MR. LENZ: To be consistent, and because this is the issue for which the special Board Meeting was called, I feel --

MR. KELLY: And nothing else, by the way.

MR. LENZ: -- and nothing else, I feel that we need to have action on the motion.

MR. LANGE: It says this is subject to later approval by the shareholders.

MR. KELLY: Surely. It's logic. Then, you can get to anything else.

MR. LENZ: All in favor of the motion as presented --

MR. MacCALLUM: Which motion is this?

MR. LENZ: The joint motion.

MR. MacCALLUM: Vote on both of them?

MR. LENZ: That's right, two motions that are now before the Board.

MR. KELLY: Unless somebody wants to vote for them separately, if you wish.

MR. MacCALLUM: Isn't that desirable?

MR. KELLY: Perhaps.

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MR. LENZ: Let us vote on the first motion. Will you read it again, please.

MR. OARD: RESOLVED, that Mr. Oard and Mrs. Arlinghaus or her designee are hereby authorized to prepare for submission to the Board of Directors and shareholders a proposed plan of dissolution and liquidation of the corporation.

MR. LENZ: All in favor of the proposal?

(Ayes.)

MR. LENZ: Opposed?

(No response.)

MR. OARD: RESOLVED, that Mr. Oard and Mrs. Arlinghaus or her designee are hereby authorized to negotiate with Mr. Sherman Unger for the sale of the business and assets of the corporation substantially on the terms set forth in the letter presented to this meeting, the final terms and conditions of such sale to be subject to the approval of the Board of Directors and shareholders.

MR. LENZ: All in favor?

(Ayes.)

MR. LENZ: Opposed?

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MR. COX: Opposed upon the basis that you are authorizing a negotiation substantially on the basis of an offer which is very substantially less than the offer presented to this Board of Directors.

MR. LENZ: Director Cox's objection will be noted.

MR. OARD: Mr. Chairman, before we -- if we do speak to Mr. Cahners, I do have one item simply to report to you.

I have been informed by Mr. Vickers that he has been unable to secure from Mr. Pepper certain records of the corporation.

Perhaps you would let him detail the records.

MR. LENZ: We will ask the Secretary of the Corporation to be specific.

MR. VICKERS: Tuesday of this week, Mr. Chairman, I went to Mr. Pepper's office and requested Mr. Pepper specifically that I have the stock certificate book and the minute book of the corporation. Mr. Pepper advised me that he was not going to hand the records over to me; that he was holding them as an attorney's lien against fees that the corporation owed him. End result: I do not have those records at hand and I have no way of obtaining them.

MR. OARD: Do you know of any unpaid fees to

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Mr. Pepper?

MR. VICKERS: Absolutely not.

Incidentally, I might add, it has never been indicated what the size of this bill would be with respect to the corporation or precisely what the services were for.

MR. KELLY: I am sorry, I didn't hear the very beginning of your statement.

Did you recite the visit on Thursday or Tuesday?

I think you should mention completely the occurrence of Wednesday.

MR. VICKERS: On Wednesday of this week, I returned to Mr. Pepper's office again with Mr. Kelly of Casey, Lane & Mittendorf, and Mr. Kelly requested the same records from Mr. Pepper and again Mr. Pepper refused to release the records.

MR. KELLY: I might say just also for the record, I followed that up with a letter yesterday to Mr. Pepper, setting forth what was our understanding, Mr. Jensen's and my understanding, of what occurred at that meeting.

I sent a copy of this letter to the officers of the corporation, and I have a copy of it here, which I would suggest the President might either read or simply

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just file with the minutes of the meeting.

The reason I asked you, Mr. Vickers, is that I understood Mr. Pepper was making a claim for $100,000 or $110,000 against the company as reflected in that letter, and I am not sure to what obligation that related. All I know is what is said in the letter; he made that statement.

MR. VICKERS: He said he had a fee due him of $100,000, but he did not specify how much of it was the corporation's or how much was a debt.

MR. KELLY: He proposed it as a joint obligation of Mrs. Arlinghaus and the corporation and he couldn't break it down, but beyond that, I think we are in substantial agreement as to what occurred.

MR. OARD: Because of that, we have retained the services of Casey, Lane & Mittendorf to act for us as may be necessary, with your approval, of course.

MR. LENZ: I might also add that I find in the agreement of retainership of DeWitt, Pepper & Howell the specific statement, as recorded in the March 6, 1966 minutes, his retainer of $12,000 a year will cover all legal services, other than what might be termed special, and this is paraphrasing the specific words, which we can get, but should there be any extra legal

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fees, these would be subject to the approval of the corporation, and I might say, as President of the Corporation, that there has been no approval of any sums of money in conjunction with the sale of this company in behalf of DeWitt, Pepper & Howell.

MR. OARD: Mr. Chairman, the only other point that I have is that I would like to propose this resolution:

RESOLVED, that a fee of $125 be paid to each Director attending this meeting, and in comment on that, I point out the Directors are paid a fee of $500 per year, but in view of the special meeting and the inconvenient circumstances, I feel that it's in order to make an extra payment.

MR. LENZ: Well, Mr. Oard, I believe that there was a motion, however, prior to that one that you put forth.

MR. OARD: No; I just reported; there was no motion.

MR. LENZ: Oh, I see.

MR. LANGE: As I understand, Sidney Pepper was appointed by the Board originally.

MR. LENZ: Yes.

MR. LANGE: Do you want the new lawyers to be appointed? Would the Board approve that also, or you

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want to let that go on your own?

MR. KELLY: I might say, just for the record, unless the Board wants to do that, my firm has never taken the position that we have to be retained by the Board of Directors, being perfectly willing to depart as attorneys at any time anybody asks us to.

MR. LANGE: Do we still have DeWitt, Pepper and whatever it is for the firm?

MR. LENZ: As of this moment, they are our legal counsel.

MR. LANGE: Do we still pay them as our legal representatives?

MR. KELLY: That's certainly something you can consider now. You can discharge them or discharge the fee arrangement or do whatever you want.

MR. LENZ: Is there a proposal?

MR. MacCALLUM: There is a motion on the floor.

MR. OARD: Yes, about the fee.

MR. LENZ: May I have a show of hands as the approval of the special fee.

All in favor?

(Ayes.)

MR. LENZ: Opposed?

(No response.)

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MR. LENZ: Now, Mr. Lange.

MR. LANGE: To continue my point, we have DeWitt, Pepper as legal counsel, and I am just ondering if under the circumstances we should still have them as counsel.

MR. LENZ: Well, we certainly feel we should not.

I am being very candid. We don't feel that we have a working arrangement that is going to serve the corporation properly in view of the past ugly experiences with Mr. Sidney Pepper of DeWitt, Pepper & Howell.

MR. LANGE: I think it would be in order for one of the people who are mostly interested, some of the management group, to make that motion.

MR. LENZ: Is there a motion forthcoming?

MR. OARD: I am not certain what steps we can take to discontinue our relation with DeWitt, Pepper & Howell.

However, RESOLVED, that the President be authorize to take such steps as may be possible to terminate the services of DeWitt, Pepper & Howell as counsel for the corporation;

and the comment, it will be up to you to find out what possible.

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MR. LANGE: I will second the motion.

MR. LENZ: All in favor?

(Ayes.)

MR. LENZ: Opposed?

MR. COX: I am not opposed, but for purely personal reasons, can I be marked as abstaining on that?

MR. LENZ: Yes, indeed.

Looking at the agenda, I see that we have covered all the items as originally planned, and now, Mr. Cox, I think, certainly, we would like to have Mr. Cahners join us.

(Mr. Cahners called in.)

MR. CAHNERS: I would like to explain at the outset that I am not an attorney and therefore, if my procedures aren't exactly legal or orthodox, then you will have to forgive me.

I first want to thank you for letting me come today. I did come early and I was hopeful of having a chance to talk informally before the meeting with those of you whom I hadn't met before, because most of the contact, so far as my company is concerned, has been with Al Hartman, who is our Vice President, and who, over several months, has been talking, mostly by phone, I guess, some visits, with different members of

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management, and I would like, I think, to approach this by telling you something about who we are and what our accounts are.

We are business magazine publishers. I started the company when I got out of the Service in 1946, with one publication, and it was an outgrowth of a Navy publication, as a matter of fact, and I kept the officers who were under me and worked on the magazine during the Navy and we entered business. None of us ever had been in the publishing business before, and the man who is now the President of our company was one of the officers who was with me during the war.

We have built the company from that one magazine up to the point where it is now second only to McGraw-Hill.

We have thirty-six business publications. We have built the company largely by acquisitions, and therefore, what we are doing here or what we contemplate doing is strictly in accordance with what we have been doing for over twelve years.

For the past decade, we have had eleven acquisition

We have magazines in -- well, I might explain -- in all of the disciplines, from packaging of raw material through transportation. We have transportation

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magazines, packaging magazines, materials handling magazines; we have purchasing magazines; we have plant operating magazines; we have magazines in the metal working industry, the plastics industry; we have magazines in the design field, in the electronic industry, electric utilities industry, and we have several hundred salesmen who contact the plants throughout the country every day.

Our circulation is slightly in excess of a million six hundred thousand plants. We cover every plant in the United States every month.

All of the SIC, the Standard Industrial Classification numbers, with which you are familiar, are the firms that our magazines go to.

When I say that we are in the magazine business, we are really in the information processing and communicating business. We have access to more business information than anybody in the country, other than McGraw-Hill, and we are currently disseminating that information through the medium of the business magazine, but the magazine is, in fact, only a medium. There are many other media for communicating business information. It can be seminars, film, could be tape, could be trade shows, whatever the media are; news

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letter for communicating business information, and we see ourselves as being in this business of processing and communicating the business information.

Now, I said before that we built the business largely through acquisition, and we have a record of performance and a record of relationship with the companies who have joined with us.

The most recent was the Conover-Mast Company, one of the largest business magazines and oldest magazine publishers in the country. The sons of the founders, Harvey Conover and Bud Mast, Jr. -- and Bud Mast was last week elected Chairman of the American Business Press, and as I am sure all of you know, this is a time when companies are merging, and the Conover-Mast Company could have joined with their choice of other publishing companies, and it was very gratifying that, after looking the field over, they selected us to join.

Now, our method and formula and record of handling a merger is to leave the company completely intact, with its management, with its policies, with everything that it had before. It isn't a question of moving it to some other place, integrating the people with other people.

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Now, the firms who have joined with us are available to talk with.

What I am saying is not something that we intend to do; this is the way we have lived for the past twelve or fifteen years. We have been able to provide a big company capability to be drawn on by these individual publishing companies.

For instance, we have a very large computer operation and therefore, the magazine companies who join with us can use that computer capability for their fulfillment or for market research as they draw upon it

We have corporate marketing people, corporate research people, corporate promotion people, but the individual divisions can use it as they need to, as they see fit to, but we have always believed that in the service business, the people are the whole thing that you buy when you acquire a company, and we have found that we have the kind of climate, the kind of relationship with the people that come with us that makes it possible for them to do better than they have done before, and please accept this in all truthfulness and sincerity, that every single publishing company that has joined with us has done dramatically better since coming with us than it did before.

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I would like to have an opportunity -- I wish you could have a chance to meet the former owners and the sons of former owners who are still in he businesses who have joined with us.

And therefore, we feel and our consideration in this case is predicated on the fact that here is a good team, a winning team, an experienced team who have conducted this business in accordance with the way the founder foresaw, the way it should be conducted, and we feel if they have been doing it up to this point, there is no reason why they can't continue to do it, and all we have wanted has been a chance to show what our philosophies are, what our attitudes are, and I think I have described what our business is.

I might also say and point out that which may be obvious to you, that we can see ourselves bringing something to the business, not just as investors and then moving away from it and if your business falls off, you know, running for cover or selling to someone else.

We have deep roots in this business information communicating field, and when I say "bring something to it," because we have all of this business information, more than anybody else in the country, with hundreds of

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editors, skilled graduate engineer journalists, every single one a graduate, developing new business information which can be put in any kind of format.

With our magazines reaching into all of these plants every month, we can promote the film business, and with our contacts in the companies we are doing business with, training people, and we see the future of our business as being in the seminar business, in the film distribution business, in the trade show business, but on the basis that we bring something to it.

And in this case, I think there is a lot that we have to bring to the business and it's been our intention -- what we have been trying to do is to get together with the management so that we could make an arrangement with them so that they can share in the business. They will have an equity position with us and they would have this equity position in advance of our whole company having a public offering, which would hold further opportunities.

I must add another thing that I think is more important to the success or, rather, to what we can bring and help in the success of the picture business, is our relationship with the International Publishing

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Corporation, the largest publication in the world, bigger than McGraw-Hill and Time put together. They selected our company as the American link in a world-wide network of business publications. They paid us twelve and a half million dollars two years ago for forty percent of our company. They have a minority position. They have even offered to give me their vote as well as the sixty percent American vote, because they saw that -- for four years they sent teams over to this country to examine the different publishing companies and to decide on the one that was in the best posture for expansion and progress, and it was because they talked to these people that had joined with us and saw how the businesses that joined with us had prospered that they made this very substantial investment.

With the IPC international capability, we have a world-wide outlet and promotional source and information source that we can bring to Modern Talking Picture Service.

June 2nd in Boston, a quarterly meeting of the IBPA, International Business Press Associates -- those are affiliated companies of IPC -- we are the American one. There is one in West Germany and France and Spain

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and Italy and The Netherlands. We meet four times a year, and for the first time it's being held in Boston and I have the very fine distinction of knowing that I am going to be the next chairman of that group.

Now, what I want to say to you is that since we know and have been through acquisitions and we know that we can live with people and people can live with us, we have the confidence to say to you that this team when you get to know how we operate, the things that you want for yourselves, we want for you, and therefore we have no question in our minds, for everything we can see, why we shouldn't be attractive people to be in business with.

Therefore, we have said, we have made an offer, and I'd like to tell you, we consider it an offer of three million dollars, and in addition to that, would like to have some arrangement for an equity position with the management team, and we want the people who are running it to continue running it and run it their way. We feel that we can help with facilities that will promote and build the business.

Now, our record and our standing in the business press of this country is very easily checked.

I have been selected to be the Chairman of the

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American Business Press the year after next. I, for the past five years, have been one of three, each year, elected on a national poll among marketing and advertising people, as the top business magazine executive of the year. I have either been first, second or third for the last five years, and therefore, I think we are a company that's on its way, and we feel that this offer of three million dollars is a fair one. It takes into account the progress that's going to be made, some of the future profits, and I would like to have a chance to talk with management, and I am sure we have never had -- there has never been the case, that I know of, where management hasn't had a better arrangement with us than with anybody else, and so I say to you that our offer of three million dollars is an offer.

We would be hopeful and would have confidence that we could make adequate and necessary arrangements with management.

I don't think there is anything else.

I hope I haven't been immodest, but there is no time now to pull any punches.

MR. LENZ: You have no reason to be immodest, Mr. Cahners. We are well aware of your accomplishments

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individually and as a corporation.

Mr. Cox, I think it's very much in order, and also Mr. Lange, that you recognize one thing:

Mr. MacCallum mentioned to me some weeks ago that through some individual, an acquisition man, there was, perhaps, an interest on the part of Cahners Publishing and should we or would we consider.

Once again, following a pattern of trying to be fair, we said, yes, but at the time that I met with Mr. Al Hartman, I explained that we had an interest, as a group, and we were also competing for the purchase of the company, and he said, very fairly, "If that is the case, why, I'll hold my word until you have some answer."

Then, it seemed as though Mr. Unger's initial offer was going to be received favorably and then it wasn't.

In the meantime, Mr. Hartman contacted me again and I simply said, well, I, frankly, don't know just where we stand, and then the bomb fell and all of a sudden Mr. Sonderling had an option to buy the thing.

The next contact with Mr. Hartman and my first contact with Mr. Cahners was to tell him the news that we were not free to do a thing; Sonderling Broadcasting

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had the option.

In the meantime, Mr. Unger increased his offer, as you know, and we, the management team, supported it and it was not a case of closing the door totally, but we couldn't talk any more after the Sonderling situation

That was how it all happened, and I think Mr. Cahners knows that.

I feel we have an action that has been passed. It is not an irrefutable thing, nor is it a finalization as you may have heard, but it is something, in turn; take Mr. Unger, having been first and with a respectable fair price, and perhaps the support of the majority stockholders situation, must be given his time at bat, so to speak, and I think, Mr. Cahners, your interest in coming here is consistent with the way you run your companies, and we appreciate it, but I do feel that at this moment we must honor the proposals that we passed, either favorably or unfavorably, but certainly, the proposals that are passed must be acted upon.

MR. OARD: It is true that Mr. Unger's offer is a firm one, which we had not seen from Cahners, I don't believe; at least I didn't.

MR. CAHNERS: We intended it. We wrote a letter.

MR. OARD: If you would care to answer -- you may

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not consider the question proper, in which case, bypass it; if you would care to mention any fees that you are planning to pay in connection with the proposed purchase

You don't care to say anything about that.

MR. CAHNERS: I don't feel it's adequate. My offer --

MR. OARD: Okay.

MR. CAHNERS: What is it that you are asking me?

MR. OARD: I was just wondering what sort of finder's or broker's fee it is. It isn't any of my business.

MR. CAHNERS: Yes, I do.

MR. OARD: And decline the question if you like.

MR. CAHNERS: No. There is a man in Boston -- I don't even know his name -- who was originally, way back, from Merrill, Lynch, I think he was -- no --

MR. OARD: Standish Consultants.

MR. CAHNERS: If you mention the name of the man -

MR. MacCALLUM: Dwight Arnold.

MR. CAHNERS: Al Hartman originally met him. I haven't talked to him, nor have I met him, but we are liable to a fee to him.

MR. OARD: And that's all?

MR. CAHNERS: Yes.

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MR. LANGE: You haven't seen too much of the company. Would you think that your offer is very firm, because it depends on what you see in further inspection of the company, as I understand it.

MR. CAHNERS: No. It just depends. It was intended to be a firm offer on the basis of Al Hartman, whose job it is to investigate the people and the companies and on the basis of what he said, we felt justified in going ahead. We considered ours a firm offer of the price and we just wanted to confirm the figures and what figures we had, that it was a legitimate checkup on that.

MR. LANGE: One of them is subject to our further verification of the business, financial prospects of the company.

Did they look into it far enough so that it wouldn't be thrown out once you looked in deeper?

That's the point.

MR. CAHNERS: No.

MR. LANGE: You did look pretty far into the business.

MR. CAHNERS: I don't consider it looking very far We put a lot of confidence in the historical records of the company, and the few figures we did get we felt

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it adequate to predicate a firm offer on. It's less than we would have liked to have looked into, but if the figures stand up under verification, which we assume they would --

As I told you before, we have been through acquisitions before and we know the reliance that you place on the management team, and all we want is a little protection against something in the figures, because we haven't seen up-to-date figures. We haven't seen a balance sheet recently, I guess. We want something, as little as possible.

MR. VICKERS: Could I make a comment here?

MR. LENZ: Yes, indeed.

MR. VICKERS: I may be misunderstanding some of the things you are saying.

Number one, your letter of April 26th was sent to me and I circulated it among the Directors on May the first; number one.

Number two, to the best of my knowledge, all the information requested by your company and Mr. Hartman had been supplied to him.

I mean, the comment that you made, you didn't have much information; it left a little doubt whether we didn't supply everything you requested.

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MR. CAHNERS: No, I didn't intend that. I didn't intend that at all.

MR. VICKERS: I just wanted to make that point clear, and with Mr. Hartman, I think my total discussions -- he has discussed the financial aspects of the company with me personally. I had met with Mr. Hartman for fifteen minutes to half an hour in my office and I had, to the best of my knowledge, supplied him with all the financial information that he requested, and one other time, maybe twice, I have had telephone conversations with him, but usually, they were in a general and not in a specific financial area.

MR. OARD: I'd like to make a comment too, Mr. Cahners, and that is that your letter of April 26th actually expresses an interest in acquiring the common stock and, of course, the Board of Directors has no control over the disposition of the common stock.

As you perhaps have heard, Mr. Unger's offer called for either a tender of the stock or, alternatively, the assets.

Our shareholders haven't all been able to tender their stock, hence their consideration for this meeting of an asset sale.

Strictly speaking, actually, your letter would be

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a matter for individual shareholders and not for the Board of Directors.

MR. CAHNERS: Well, I don't know what the proper legal phraseology would be, but I would like to say I would be willing to do that too.

MR. OARD: In effect, it isn't an offer to the Board of Directors couched in the way --

MR. CAHNERS: I intend it to be one that can be considered and therefore, if I have to add something to say not just a stock purchase, but an asset or transaction or however it can be legally worked out, is satisfactory to me too.

Are there any other questions that anyone has that they would like to ask me?

MR. LENZ: Are there any questions of Mr. Cahners at the moment?

(No response.)

MR. LENZ: Well, I think that we understand your position and your interest, Mr. Cahners.

MR. CAHNERS: May I make one final statement?

MR. LENZ: Yes, indeed.

MR. CAHNERS: You see, the thing that I would like to have a chance to do is, or what I am trying to do is to see that in this transaction, that this isn't a

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hostile one.

I have been feeling a little bit uneasy this afternoon. I have never been in a posi-ion where we have taken anything away from somebody. We have never had a situation where the management wasn't with us and where the stockholders weren't with us. You haven't known us in light of all the circumstances, but I would like to feel that we could be given a chance to show that our intention is that the stockholders should be better off with us from a financial standpoint; that management would be better off with us from all of the considerations that management has, and therefore, if there is -- and I am saying this; I know you are not charged with acting on resolutions and everything.

I just want to set forth this desire, and if it's possible, to do it, you know, to talk to management specifically and I want to be specific, as I have tried to be here today. That's what we wanted to do, but I would like everybody here to know that we would not, and it is not our intention, to force our way into anything.

We think it's a great company and we think it has a great future.

MRS. ARLINGHAUS: I think that's what we think too

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Mr. Cahners.

MR. LENZ: Thank you, Mr. Cahners.

MR. CAHNERS: I appreciate your letting me go on and on like that.

MR. LENZ: Is there any other business to come before the Board?

(No response.)

MR. LENZ: If not, I will entertain a motion of adjournment.

MR. OARD: I so move.

MR. LENZ: All in favor?

(Ayes.)

MR. LENZ: Opposed?

(No response.)

MR. LENZ: So ordered.

(Whereupon, at 7:00 o'clock p.m., the foregoing meeting was adjourned.)

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ARLINGHAUS EXHIBIT 3

STOCK COMPANIES

ROYAL INDEMNITY COMPANY
A NEW YORK CORPORATION

GLOBE INDEMNITY COMPANY
A NEW YORK CORPORATION

NEWARK INSURANCE COMPANY
A NEW JERSEY CORPORATION
East Orange, New Jersey

QUEEN INSURANCE COMPANY OF AMERICA
A NEW YORK CORPORATION

AMERICAN AND FOREIGN INSURANCE COMPANY
A NEW YORK CORPORATION

THE LONDON & LANCASHIRE INSURANCE CO., LTD.
A CORPORATION OF GREAT BRITAIN

SAFEGUARD INSURANCE COMPANY
A CONNECTICUT CORPORATION
Hartford, Connecticut

Executive Office: 150 William Street, New York, New York 10038

WHEREAS SIDNEY PEPPER, ESQ, of 120 Broadway, City, County and State of New York, former counsel to MODERN TALKING PICTURE SERVICE, INC. ("Modern"), claims that the sum of ONE HUNDRED TEN THOUSAND AND 00/100 ($110,000.00) DOLLARS is due him from Modern on account of legal fees for services rendered by him for Modern incident to a proposed sale of the stock of the company to Sonderling Broadcasting Corporation pursuant to a resolution passed by the Board of Directors of Modern on April 8, 1968, and for disbursements incurred in connection therewith; and

WHEREAS Modern Talking Picture Service, Inc. disputes the claim and the amount thereof; and

WHEREAS said Sidney Pepper claims an attorney's retaining lien upon the books, records and papers of the corporation and upon certain stock certificates and certain papers books and records belonging to Rosalie M. Arlinghaus in her personal and representative capacities, all of which are now in possession and refuses to return said books, papers and certificates of stock without security;

NOW, THEREFORE, GLOBE INDEMNITY COMPANY having an office and place of business at 150 William Street, New York, New York, is hereby held and firmly bound unto Sidney Pepper, Esq. of 120 Broadway, City, County and State of New York, in the sum of ONE HUNDRED TEN THOUSAND AND 00/100 ($110,000.00) DOLLARS, and conditioned upon the payment of any final judgment which may be rendered against Modern in any action commenced in the Supreme Court of the State of New York, New York County, before June 1, 1969 by said Sidney Pepper against Modern to recover for legal services rendered by him to Modern incident to the proposed sale of the stock of the corporation to Sonderling Broadcasting Corporation pursuant to a resolution passed by the Board of Directors of Modern on April 8, 1968, and for disbursements incurred in connection therewith.

SEALED, SIGNED AND DATED this 29th day of May, 1968.

GLOBE INDEMNITY COMPANY

BY: _____

WESLEY C. WAITE
ATTORNEY IN FACT

BOND NO. 562901

ARLINGHAUS EXHIBIT 6

At Special Term of the Supreme Court, Part II thereof, held in and for the County of New York, at the Courthouse, Centre and Pearl Streets, City, County and State of New York, on the 3rd day of June, 1968

722a

P R E S E N T :

HON. FRANCIS T. MURPHY, JR.

Justice.

In the Matter of the Application of

MODERN TALKING PICTURE SERVICE, INC., a corporation organized and existing under the laws of Delaware;

ROSALIE M. ARLINGHAUS, as Executrix of the Will of Frank H. Arlinghaus;

ROSALIE M. ARLINGHAUS, as Guardian of Alix Ann, Frank H. and John C. Arlinghaus;

ROSALIE M. ARLINGHAUS, individually;

HOWARD H. EBERLE, as Trustee under trust dated May 18, 1965; and

HOWARD H. EBERLE, individually;

Petitioners,

-against-

DE WITT, PEPPER & HOWELL, a partnership consisting of Sidney Pepper and Harry E. Howell;

Respondents.

ORDER TO SHOW CAUSE

Index No. 8982/68

Upon the annexed affidavits of William E. Kelly, sworn to June 3, 1968, Carl Lenz, Rosalie M. Arlinghaus and George H. Vickers, sworn to May 31, 1968,

Let respondents or their attorneys show cause before a Special Term of this Court, Part I thereof, to be

held in and for the County of New York, at the Courthouse, Centre and Pearl Streets, City, County and State of New York, on the 5th day of June, 1968 at 9:30 A.M. or as soon thereafter as counsel can be heard, why an order should not be issued directing respondents to turn over to petitioners all of their books, records, papers, files and stock certificates now in the possession of respondents, and granting such other and further relief as is just and proper; and it ~~is~~ APPEARING

~~ORDERED~~ that, sufficient grounds having been shown for bringing on the motion on less than eight days' notice, and the affidavits of petitioners upon which this order is granted having been delivered to respondents' office and the home of respondent Sidney Pepper on May 31, 1968, IT IS ORDERED service of copies of this order and the papers upon which it is granted pursuant to CPLR 2103(b)(1), (3) or (4) on or before June 4, 1968 shall be deemed sufficient.

ENTER

S/ F.T.M.
J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

724a

In the Matter of the Application of	
MODERN TALKING PICTURE SERVICE, INC., a corporation organized and existing under the laws of Delaware;	Index No. 8982/68
ROSALIE M. ARLINGHAUS, as Executrix of the Will of Frank H. Arlinghaus;	AFFIDAVIT
ROSALIE M. ARLINGHAUS, as Guardian of Alix Ann, Frank H. and John C. Arlinghaus;	
ROSALIE M. ARLINGHAUS, individually;	
HOWARD H. EBERLE, as Trustee under trust dated May 18, 1965; and	
HOWARD H. EBERLE, individually;	
Petitioners,	
-against-	
DE WITT, PEPPER & HOWELL, a partnership consisting of Sidney Pepper and Harry E. Howell;	
Respondents.	

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

DANIEL A. MAHER, being duly sworn, deposes and says: That I am over the age of twenty-one years, a resident of New York, and not a party to the action.

That on the 3rd day of June, 1968, at 4:20 P.M., I served upon DeWitt, Pepper & Howell, attorneys and respondents herein, true copies of the Order to Show Cause dated June 3, 1968 and attached affidavits of William E. Kelly, Carl Lenz, Rosalie M. Arlinghaus and George H. Vickers, sworn to on May 31, 1968 with exhibits annexed

thereto by personally delivering said copies to Carol Menditto, at the office of DeWitt, Pepper & Howell at 120 Broadway, New York, New York and at said time and place the office was open and Carol Menditto was the person in charge and Carol Menditto identified herself as the secretary to Mr. Sidney Pepper.

s/
Daniel A. Maher

Sworn to before me this
4th day of June, 1968

Notary Public
EDWIN F. ABRAHAMS
Notary Public, State of New York
No. 24-5005585
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1970

At Special Term of the Supreme Court, Part II thereof, held in and for the County of New York, at the Courthouse, Centre and Pearl Streets, City, County and State of New York, on the 3rd day of June, 1968

P R E S E N T :

FRANCIS T. MURPHY, JR. Justice.

- x

In the Matter of the Application of :

MODERN TALKING PICTURE SERVICE, INC., a corporation organized and existing under the laws of Delaware; :

ROSALIE M. ARLINGHAUS, as Executrix of the Will of Frank H. Arlinghaus; :

ROSALIE M. ARLINGHAUS, as Guardian of Alix Ann, Frank H. and John C. Arlinghaus; :

ROSALIE M. ARLINGHAUS, individually; :

HOWARD H. EBERLE, as Trustee under trust dated May 18, 1965; and :

HOWARD H. EBERLE, individually; :

Petitioners, :

-against- :

DE WITT, PEPPER & HOWELL, a partnership consisting of Sidney Pepper and Harry E. Howell; :

Respondents. :

- -x

ORDER TO SHOW CAUSE

Index No. 8982/68

Upon the annexed affidavits of William E. Kelly, sworn to June 3, 1968, Carl Lenz, Rosalie M. Arlinghaus and George H. Vickers, sworn to May 31, 1968,

Let respondents or their attorneys show cause before a Special Term of this Court, Part I thereof, to be

held in and for the County of New York, at the Courthouse, Centre and Pearl Streets, City, County and State of New York, on the 5th day of June, 1968 at 9:30 A.M. or as soon thereafter as counsel can be heard, why an order should not be issued directing respondents to turn over to petitioners all of their books, records, papers, files and stock certificates now in the possession of respondents, and granting such other and further relief as is just and proper; and it is

ORDERED that, sufficient grounds having been shown for bringing on the motion on less than eight days' notice, and the affidavits of petitioners upon which this order is granted having been delivered to respondents' office and the home of respondent Sidney Pepper on May 31, 1968, service of copies of this order and the papers upon which it is granted pursuant to CPLR 2103(b)(1), (3) or (4) on or before June 4, 1968 shall be deemed sufficient.

E N T E R

/s/ Francis T. Murphy, Jr.
J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of the Application of MODERN TALKING PICTURE SERVICE, INC., a corporation organized and existing under the laws of Delaware; ROSALIE M. ARLINGHAUS, as Executrix of the Will of Frank H. Arlinghaus; ROSALIE M. ARLINGHAUS, as Guardian of Alix Ann, Frank H. and John C. Arlinghaus; ROSALIE M. ARLINGHAUS, individually; HOWARD H. EBERLE, as Trustee under trust dated May 18, 1965; and HOWARD H. EBERLE, individually; Petitioners, -against- DE WITT, PEPPER & HOWELL, a partnership consisting of Sidney Pepper and Harry E. Howell; Respondents.	AFFIDAVIT IN SUPPORT OF APPLICATION Index No.

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

WILLIAM E. KELLY, being duly sworn, deposes and says that he is a member of the law firm of Casey, Lane & Mittendorf, attorneys for petitioners, and that he submits this affidavit in support of their application for an order directing respondents to return to petitioners their books, records, stock certificates, files and papers now in respondents' possession.

1. This is a summary proceeding brought against two attorneys admitted to the Bar of the State of New York by two former clients of theirs, Modern Talking Picture Service, Inc. and Rosalie M. Arlinghaus, and a third person,

Howard H. Eberle, for an order directing respondents to return to them their books, records, stock certificates, files and papers now in respondents' possession.

MODERN TALKING PICTURE SERVICE, INC.

2. Respondents served as counsel to petitioner Modern Talking Picture Service, Inc. ("Modern"), until May 24, 1968. Respondents have in their possession M dern's minute book, stock certificate book and by-laws and other corporate papers. They have refused to return all or any of them to Modern, claiming they are holding them as security for payment of a $100,000 fee for legal services allegedly rendered for some or all of the petitioners. Modern seeks an adjudication that respondents have no lien on those books, records and papers, in the first place, because the services rendered, if any, were not legal services or, at best, only quasi-legal services and, in the second place, on the ground that any right to a lien was forfeited since respondents were disloyal to Modern in the transaction for which they claim fees and have abused the privilege of an attorney's lien by refusing to accept substitute security. The relevant facts are stated in the affidavit of Carl H. Lenz, Modern's President, and George H. Vickers, Modern's Secretary and Treasurer, submitted herewith.

ROSALIE M. ARLINGHAUS

3. Respondents served as counsel to petitioner Rosalie M. Arlinghaus and the estate of Frank H. Arlinghaus, of which she is the executor, until May 24, 1968. Respondents have possession of stock certificates, papers, records and files belonging to Mrs. Arlinghaus or the

estate. Respondents refuse to turn over all or any of those stock certificates, papers, records and files, claiming that they have an attorney's lien for services rendered to Mrs. Arlinghaus and the estate. Rosalie M. Arlinghaus seeks to have the Court hold that respondents have no lien on the stock certificates, papers, records, and files for the same reasons urged with respect to the books, records and papers of Modern and, as far as the stock certificates are concerned, for the additional reason that respondents were given possession of such certificates as attorneys-in-fact, not as attorneys-in-law. The relevant facts are stated in the affidavit of Rosalie M. Arlinghaus, submitted herewith.

HOWARD H. EBERLE

4. Petitioner Howard H. Eberle is a resident of the State of Florida. His affidavit could not be obtained in time for submission in support of the instant order to show cause but will, the mails permitting, be submitted to the Court upon the argument of this motion. In his affidavit, Mr. Eberle will state that respondents have in their possession stock certificates issued to, and belonging to, him individually and as trustee under a trust dated May 18, 1965. They hold such certificates pursuant to a power of attorney authorizing them to cause transfer to be made of the shares represented by the certificates upon the completion of the proposed sale of the stock described in the affidavit of Carl Lenz. Mr. Howell has retained deponent's law firm for the purpose of obtaining an order requiring respondents to return such certificates to him.

5. A previous application for the relief requested herein was made on May 31, 1968 and was granted in an order to show cause signed by Honorable Margaret Mary J. Mangan on that date. Deponent's moving affidavit, identical to the instant affidavit except for this paragraph, as well as the affidavits of Carl Lenz, Rosalie M. Arlinghaus and George H. Vickers, sworn to May 31, 1968, copies of which are annexed hereto, were submitted in support of that application. By Justice Mangan's order to show cause the order and papers were required to be delivered to respondent Sidney Pepper before 4 p.m. on May 31, 1968. Diligent efforts were made to serve the order to show cause pursuant to the directions contained therein, but without success. However, copies of all of the papers on which the order to show cause was granted, together with a notice of motion for June 5, 1968, were left in a conspicuous place at respondents' office and in the mailbox at the residence of respondent Sidney Pepper.

WHEREFORE, deponent respectfully submits that the Court should grant the application and should direct respondents to turn over to petitioners all of their books, records, papers, files and certificates now in the possession of respondents, and that the Court should award to petitioners their costs and disbursements of this application and grant such other and further relief as to the Court may seem just and proper.

Sworn to before me this
3rd day of June, 1968.

Mildred Vanner
Notary Public

William E. Kelly
William E. Kelly

MILDRED VANNER
Notary Public, State of New York
No. 41-0429350 Queens County
Certificate filed in New York County
Term Expires March 30, 1970

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of the Application of MODERN TALKING PICTURE SERVICE, INC., a corporation organized and existing under the laws of Delaware; ROSALIE M. ARLINGHAUS, as Executrix of the Will of Frank H. Arlinghaus; ROSALIE M. ARLINGHAUS, as Guardian of Alix Ann, Frank H. and John C. Arlinghaus; ROSALIE M. ARLINGHAUS, individually; HOWARD H. EBERLE, as Trustee under trust dated May 18, 1965; and HOWARD H. EBERLE, individually; Petitioners, -against- DE WITT, PEPPER & HOWELL, a partnership consisting of Sidney Pepper and Harry E. Howell; Respondents.	AFFIDAVIT IN SUPPORT OF APPLICATION Index No.

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

CARL H. LENZ, being duly sworn, deposes and says that he is the President and Chairman of the Board of Modern Talking Picture Service, Inc. ("Modern"), and that he submits this affidavit in support of Modern's application for an order directing respondents to return forthwith to Modern such of its books, records and papers as are now in respondents' possession.

1. Modern is a Delaware corporation, duly authorized to do business in the State of New York and in 21 other states, having its main office at 1212 Avenue of the Americas, New York, New York.

2. Respondent De Witt, Pepper & Howell is a law firm with offices at 120 Broadway, Manhattan. Its members are Sidney Pepper, partner resident in New York, and Harry E. Howell, partner resident in Washington.

3. Deponent was elected a director of Modern in 1963, and was appointed President and Chairman of the Board in 1964 upon the death of Modern's founder and first President, Frank H. Arlinghaus.

4. The law firm of De Witt, Pepper & Howell has acted as Modern's counsel for many years. Respondent Pepper was elected a director of Modern in 1964.

5. Modern's stockholders and directors have received from time to time proposals from individuals and corporations for the purchase of Modern's stock or assets. On April 8, 1968, the Board of Directors approved in principle such an offer, made by Sonderling Broadcasting Corporation and presented to the Board by respondent Pepper. The purchase plan, as proposed by respondent Pepper, provided for payment to the Corporation of the sum of $2,800,000 for its assets and properties and provided for payment of a $300,000 finder's fee by Modern to Commonwealth Development Corporation.

6. After the meeting of April 8, 1968, it was discovered that the Sonderling Broadcasting Corporation on March 20, 1968, had sent to respondent Pepper a letter directed to the Board of Directors of Modern in which the terms of the offer were outlined. Respondent Pepper

had failed to submit that letter to the Board. It was also discovered that respondent Pepper had failed to keep the Board of Directors currently informed about the interest of a group represented by Sherman Unger, Esq., of Cincinnati, Ohio, in purchasing the assets or stock of the Corporation and had failed to inform Sherman Unger of the Sonderling offer and to afford Sherman Unger an opportunity to better it. Consequently, on or about May 13, 1968, a stockholder's suit was instituted in the Delaware Chancery Court for New Castle County by Richard M. Hough, a minority stockholder of Modern, to enjoin the sale of the company's assets pursuant to the resolution of April 8, 1968 on the ground that the shareholders would suffer irreparable damage thereby.

7. At a hearing on a preliminary injunction held before Chancellor Duffy on May 13, 1968, respondent Pepper was called by plaintiff's attorney to testify about his interest in the proposed sale. A transcript of his testimony is annexed hereto and marked Exhibit "A". Respondent Pepper conceded that, under the Sonderling proposal as presented by him to the Board of Directors, $300,000 was to be paid as a finder's fee to Commonwealth Development Corporation and that he was to receive one-third (1/3) of that fee. He testified that he was to receive that payment "for all my services in connection with the bringing about of the consummation of the transaction, or the sale." (Tr. p. 241). He maintained that those services included primarily legal services. (Ibid.). In regard to the Sonderling letter of March 20, 1968 directed to the Board of Directors, respondent Pepper testified:

"Q When did you bring that [letter] to the attention of the board of directors?

"A The letter? At no time.

"Q It is addressed to the board of directors, is it not?

"A Yes.

"Q Why is it that you never delivered or brought to the attention of the board of directors a letter addressed to them by Mr. Sonderling?

"A I did not regard it as my duty. It was not an offer that was acceptable in any way.

"Q You were the attorney for the corporation, were you not?

"A Yes.

"Q And you did not regard it as your duty as attorney for the corporation to deliver correspondence addressed to the board of directors to the board of directors?

"A Right. I thought it was inadvisable to do it." (Id., pp. 257-58).

Respondent Pepper also conceded during his testimony that his wife was the owner of a very substantial number of shares of Sonderling stock at the time when he was pushing the Sonderling deal and ignoring the interests of the Unger group. (Id., pp. 245-46).

8. As a result of the testimony adduced at the hearing, Chancellor Duffy issued a preliminary injunction, enjoining pendente lite the proposed sale to Sonderling. The Chancellor found that respondent Pepper had failed to communicate the full terms of the proposal contained in Sonderling's letter, sent to respondent Pepper and directed to the Board of Directors; that respondent Pepper had failed to afford the competing group of potential buyers an opportunity to meet the Sonderling offer; that respondent Pepper had had a "unique role" in these events

and a personal interest in the Sonderling offer; and that the resolution, drafted by respondent Pepper, by which the Board of Directors accepted the offer, contained uncertainties as to what the final purchase price would be. A copy of the Chancellor's opinion is annexed hereto and marked Exhibit "B".

9. Because of the disclosures made prior to, and at, the hearing in the Delaware Chancery Court, the Board of Directors, on May 24, 1968, rescinded the resolution of April 8, 1968. At the same time, the Board of Directors voted to terminate the services of the law firm of De Witt, Pepper & Howell.

10. In the meantime, on May 10, 1968, the corporation and its stockholders had received a firm offer from the Unger group to purchase the shares or the assets of Modern. By the terms of the offer, if the stock-sale route were followed, all of the stock outstanding was to be tendered before May 24, 1968, and if the asset-sale route were followed, the corporation was required to act upon the offer by that day. Deponent is informed that all of the stockholders resolved to accept the Unger Group's offer for purchase of the shares.

11. As related in the affidavits of Rosalie M. Arlinghaus and George H. Vickers, submitted in support of the application, respondents have in their possession stock certificates for 44,420 shares of Modern common stock belonging to petitioner Rosalie M. Arlinghaus and the estate of Frank H. Arlinghaus. Respondents, under claim of an attorney's retaining lien, have refused to relinquish possession of those certificates unless they are paid a fee of $100,000 and $10,000 on account of estimated disbursements. Solely as a consequence of that refusal, those shares were

not tendered by May 24, 1968, as required by the Unger group's offer. Deponent is informed that the offer has been extended for a limited, indefinite time by the prospective purchasers. As also appears from the affidavit of George H. Vickers, respondents have refused to return to Modern its minute book, stock certificate book and other papers and records, asserting the same claim and lien as they have asserted with respect to the Arlinghaus stock certificates. They have refused to accept a surety bond in the amount of $110,000 as substitute surety, or even to negotiate the terms of such a bond.

12. Deponent is advised by counsel that respondents may not claim an attorney's retaining lien on account of legal services, if any, rendered by them in connection with the proposed sale of assets to Sonderling Broadcasting Corporation, inasmuch as respondent Pepper acted in bad faith and disloyally to Modern in the transaction with respect to which the fee is claimed and thereby forfeited all right to compensation as an attorney. Deponent is further advised that, were an attorney's lien properly assertable, it has been lost because respondent Pepper, in refusing to return the books, records, papers and stock certificates against security when they were desperately needed by the corporation and shareholders, abused the privilege to claim an attorney's lien and thereby lost that privilege.

WHEREFORE, deponent respectfully submits that the Court should grant the application and should direct

respondents to return to Modern forthwith all books, records and papers belonging to it now in their possession. 738a

Carl H. Lenz

Sworn to before me this
31st day of May, 1968.

Notary Public

WILLIAM E. KELLY
Notary Public, State of New York
No. 31-2081265
Qualified in New York County
Commission Expires March 30, 1969

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of the Application of	
MODERN TALKING PICTURE SERVICE, INC., a corporation organized and existing under the laws of Delaware;	
ROSALIE M. ARLINGHAUS, as Executrix of the Will of Frank H. Arlinghaus;	AFFIDAVIT IN SUPPORT OF APPLICATION
ROSALIE M. ARLINGHAUS, as Guardian of Alix Ann, Frank H. and John C. Arlinghaus;	Index No.
ROSALIE M. ARLINGHAUS, individually;	
HOWARD H. EBERLE, as Trustee under trust dated May 18, 1965; and	
HOWARD H. EBERLE, individually;	
Petitioners,	
-against-	
DE WITT, PEPPER & HOWELL, a partnership consisting of Sidney Pepper and Harry E. Howell;	
Respondents.	

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

ROSALIE M. ARLINGHAUS, being duly sworn, deposes and says that she is one of the petitioners herein and that she submits this affidavit in support of her application for an order directing respondents to return forthwith to her stock certificates, papers and files belonging to her in her individual and representative capacities.

1. Deponent owns 3,500 of the 94,500 shares of Modern Talking Picture Service, Inc. ("Modern") common stock issued and outstanding. Deponent is the executrix of the

estate of Frank H. Arlinghaus, which owns 40,920 shares of such Modern common stock, and the guardian of her children Alix Ann, Frank H. and John C. Arlinghaus, each of whom owns 2,750 shares of Modern common stock.

2. Upon the death of Frank H. Arlinghaus in 1964, deponent retained Benjamin J. De Witt, an attorney admitted to the Bars of New Jersey and New York, the senior member of the law firm of De Witt, Pepper & Howell, to act as the attorney for his estate. Upon the death of Mr. De Witt in 1965, respondent Pepper assumed the responsibility for the rendition of legal services to the estate. For that purpose, respondent Pepper has possession of all of the records, files and papers of the estate, including one or more Sonderling Broadcasting Corporation stock certificates representing 11,256 shares of Sonderling stock.

3. Respondent Pepper at various times was paid amounts totalling $34,000 for legal services rendered to the estate. On or about December 28, 1967, at a conference between deponent, respondent Pepper and George Vickers, respondent Pepper advised deponent that he had been paid in full for all legal services rendered by him to the estate of Frank H. Arlinghaus.

4. As explained more fully in the affidavit of Carl Lenz, offers have been made from time to time by individuals and corporations to purchase the assets or shares of Modern. One such offer, made by Sonderling Broadcasting Corporation, was approved in principle by the Board of Directors on April 8, 1968. Consequently, on April 10, 1968, before going for a seven-week vacation, deponent executed a power of

attorney to respondent Pepper authorizing him to transfer the Modern common shares of the estate, as well as those owned by deponent individually, to the prospective purchaser, and she delivered to him five stock certificates evidencing the ownership of all of those shares.

5. Upon the abortion of the Sonderling offer and the making of the tender offer by other purchasers, described in the affidavit of Carl Lenz, deponent authorized George Vickers to secure for her from respondent Pepper the five Modern common stock certificates so that deponent would be able to meet the terms of the tender offer. At the same time, deponent authorized Mr. Vickers to demand from respondent Pepper the Sonderling common stock certificate belonging to the estate. As appears from the affidavit of Mr. Vickers, submitted herewith, Mr. Vickers demanded the certificates from respondent Pepper on May 21, 1968, but respondent Pepper refused to turn them over. On May 22, 1968 deponent appeared, together with Mr. Vickers and three persons, at the office of respondent Pepper, and demand was again made on her behalf for return of the Modern and Sonderling stock certificates. Respondent Pepper again refused to turn them over and stated his intention to be to retain all of the certificates, as well as the books, papers and records of Modern, until he should be paid the amount of $110,000. A letter containing a summary of the conversation had in respondent Pepper's office on that occasion was mailed to respondent Pepper the following day by deponent's attorneys. A copy of that letter is annexed hereto and marked Exhibit "A". Deponent affirms

that the letter repeats correctly respondent Pepper's statements during the conference. Respondent Pepper's reply was contained in a letter dated May 24, 1968. A copy of that letter is annexed to this affidavit and marked Exhibit "B".

6. Deponent is advised by her counsel that, for the reasons fully stated in the affidavit of Carl Lenz, respondents are not entitled to claim an attorney's retaining lien on account of legal services, if any, rendered by him in connection with the proposed sale of stock to Sonderling Broadcasting Corporation. Deponent is further advised that, inasmuch as respondents were given custody of the Modern and Sonderling certificates for the limited purpose of facilitating the transfer of the stock if it should be in the interest of the stockholders of the corporation to make such a transfer in deponent's absence, and not because he needed the certificates to perform his services as attorney for deponent or the estate, no attorney's lien can be claimed by respondent Pepper in any event.

WHEREFORE, deponent respectfully submits that the Court should grant the application and should direct Sidney Pepper to return forthwith to deponent all of the stock certificates, records, files and papers, now in his possession, belonging to deponent or her children or belonging or pertaining to the estate of Frank H. Arlinghaus.

/s/ Rosalie H. Arlinghaus

Sworn to before me this
31st day of May, 1968.

/s/ William E. Kelly
Notary Public

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of the Application of MODERN TALKING PICTURE SERVICE, INC., a corporation organized and existing under the laws of Delaware; ROSALIE M. ARLINGHAUS, as Executrix of the Will of Frank H. Arlinghaus; ROSALIE M. ARLINGHAUS, as Guardian of Alix Ann, Frank H. and John C. Arlinghaus; ROSALIE M. ARLINGHAUS, individually; HOWARD H. EBERLE, as Trustee under trust dated May 18, 1965; and HOWARD H. EBERLE, individually. Petitioners, -against- DE WITT, PEPPER & HOWELL, a partnership consisting of Sidney Pepper and Harry E. Howell; Respondents.	AFFIDAVIT IN SUPPORT OF APPLICATION

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

GEORGE H. VICKERS, being duly sworn, deposes and says that he is Secretary and Treasurer of Modern Talking Picture Service, Inc. ("Modern"), and that he submits this affidavit in support of the application for an order directing respondents to return to Modern its books, records and papers and to petitioner Arlinghaus the stock certificates, files and papers belonging to her and the estate of Frank H. Arlinghaus.

1. On or about December 28, 1967, deponent conferred with petitioner Rosalie M. Arlinghaus and respondent

Pepper. At that time, respondent Pepper gave Mrs. Arlinghaus and deponent his assurance that the amount ($34,000) theretofore paid to him for legal services rendered by him to the estate of Frank H. Arlinghaus constituted full payment for all such services.

2. On May 21, 1968 deponent made demand upon respondent Pepper, at his office at 120 Broadway, New York, New York, that he return to deponent Modern's books, records and papers in his possession. Pursuant to authorization given deponent by petitioner Rosalie M. Arlinghaus, deponent also demanded surrender of all stock certificates belonging to her or the estate of Frank R. Arlinghaus. Respondent Pepper refused to comply with either request.

3. On May 22, 1968 deponent appeared at the office of respondent Pepper with petitioner Rosalie M. Arlinghaus and three other persons. At that time the same demands were made of respondent Pepper, who gave the same answer. Deponent affirms that the conference had at respondent Pepper's office on the latter occasion is accurately summarized in the letter dated May 23, 1968, Exhibit "A" to the affidavit of Rosalie M. Arlinghaus.

4. On May 29, 1968 deponent, accompanied by counsel for Modern and Mrs. Arlinghaus, again appeared at respondent Pepper's office and tendered to him a bond of the Globe Indemnity Company in the amount of $110,000 to serve as substitute security for the books, papers and stock certificates retained by respondents. Respondent Pepper refused to accept the bond, refused to discuss the terms of a bond and refused to commit himself to accept any bond in discharge of the attorney's lien at any time.

WHEREFORE, deponent respectfully submits that the Court should grant the application and should direct respondents to turn over to Modern its books, papers and records and return to petitioner Rosalie M. Arlinghaus the stock certificates, papers and files belonging to her in her personal and representative capacities, all of which are now in their possession.

George H. Vickers
George H. Vickers

Sworn to before me this
31st day of May, 1968.

William E. Kelly
Notary Public

WILLIAM E. KELLY
Notary Public, State of New York
No. 31-2081265
Qualified in New York County
Commission Expires March 30, 1969

Index No.
SUPREME COURT OF THE
STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of the Application of MODERN TALKING PICTURE SERVICE, INC., et al.,

Petitioners,

-against-

DE WITT, PEPPER & HOWELL, a partnership consisting of Sidney Pepper and Harry E. Howell,

Respondents.

ORDER TO SHOW CAUSE
AND AFFIDAVITS

CASEY, LANE & MITTENDORF

ATTORNEYS FOR Petitioners

OFFICE AND P. O. ADDRESS
26 BROADWAY
WHITEHALL 3-3000 NEW YORK, N. Y. 10004

SERVICE OF WITHIN

ADMITTED THE _____ DAY OF _____ 19

ATTORNEYS FOR

ARLINGHAUS EXHIBIT 5

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

- x

In the Matter of the Application of

MODERN TALKING PICTURE SERVICE, INC., a corporation organized and existing under the laws of Delaware;

ROSALIE M. ARLINGHAUS, as Executrix of the Will of Frank H. Arlinghaus;

ROSALIE M. ARLINGHAUS, as Guardian of Alix Ann, Frank H. and John C. Arlinghous;

ROSALIE M. ARLINGHAUS, individually;

HOWARD H. EBERLE, as Trustee under trust dated May 18, 1965; and

HOWARD H. EBERLE, individually;

Petitioners,

- against -

DE WITT, PEPPER & HOWELL, a partnership consisting of Sidney Pepper and Harry E. Howell;

Respondents.

NOTICE OF MOTION

Index No. 8982/68

- x

S I R S :

PLEASE TAKE NOTICE, that on the affidavits of the petitioner submitted in support of a Motion and an order to Show Cause by the "Petitioners" above named, and upon the affidavit of SIDNEY PEPPER and JACK A. ROSEN, verified the 3rd and 4th days of June, 1968, respectively, on the 5th day of June, 1968, the return day of this proceeding, at Special Term Part I of this Court, to be held in and for the County of New York, at Foley Square, New York City, at 9:30 o'clock in the forenoon of that day, or as soon thereafter as Counsel can be heard, the undersigned will move this Court for a judgment dis-

missing the proceeding herein pursuant to Rule 404 of the CPLR on the grounds that:

1 - The Cause of Action is not within the s ope of Special Proceedings as defined in Article 4 of the CPLR, and therefore must be commenced by the service of a Summons and Complaint.

2 - If a Special Proceeding were brought, it may be commenced by a Notice of Petition, or Order to Show Cause, Sec. 304 of CPLR), which must be served in the same manner as a Summons (Sec 304 and 403 of CPLR).

3 - That the proceeding is defective in that any Special Proceeding, so commenced by Notice of Petition or Order to Show Cause, must contain a Verified Petition (Sec 403 (d) CPLR, see Advisary Committee Notes on 403 (d))and there is no Verified Petition attached.

4 - The Petition on such Special Proceeding must be verified.

5 - Sec. 2103 b (1) (3) and (4) submitted by the Petitioner on his Order to Show Cause as the basis for obtaining the said Order, is not applicable or relevant.

6 - No jurisdiction over the Respondent has been obtained by reason of lack of personal service; and the Court cannot, by Order of Show Cause, waive such personal service.

And for such other and further relief as to this Court may seem just and proper.

DUGAN & ROSEN, ESQS.
Appearing Specially as
Attorney for Respondents
25 West 43rd Street
New York, New York 10036
Tel. #212-564-6320

Dated June 4, 1968

To: CASEY, LANE & MITTENDORF, ESQS.
26 Broadway
New York, New York

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of the Application of

MODERN TALKING PICTURE SERVICE, INC. et. al.

Petitioner,

- against -

DE WITT, PEPPER & HOWELL, a partnership consisting of Sidney Pepper and Harry E. Howell.

Respondents.

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS.:

JACK A. ROSEN, being duly sworn, deposes and says that he is a Member of the firm of DUGAN & ROSEN, Attorneys for SIDNEY PEPPER, the above named Respondent, and that the said Respondent and his Attorneys, appear specially herein to contest the jurisdiction of this Court over the Respondent, SIDNEY PEPPER, in the above stated matter.

This Motion is also submitted in answer to the two Motions of the Petitioner, one of which has been brought on by Notice of Motion and the other by Order to Show Cause.

The Petitioners, if they can be so called, since no Petition is attached to either the Notice of Motion or to the Order to Show Cause, are attempting to commence a Special Proceeding by a Notice of Motion with affidavits annexed and by an Order to Show Cause with affidavits annexed. On Cross-Motion, Deponent has set forth six separate grounds, any one of which

brought herein by the "Petitioners".

1 - As appears from the affidavits submitted in support of the Notice of Motion and Order to Show Cause, the Respondent has impressed an Attorney's lien on certain papers, books and securities. The Respondent, on a trial of the issues will submit more than sufficient proof to substantiate the amount of the lien claimed by him. However, since this Motion is based on a jurisdictional question only, the merits will not be discussed herein. It should be noted, however, that the Special Proceedings referred to in Article 4 of the CPLR relate to the former Habeas Corpus, Ceritiorari and Mandamus Proceedings, etc. and is not intended to cover a Motion for Judgment, which is what presently is before this Court.

2 - A Special Proceeding, as authorized by Article 4 of the CPLR, may be commenced by either a Notice of Petition, or an Order to Show Cause, but such Notice of Petition or Order to Show Cause must be served in the same manner as a Summons. As appears from the affidavit of SIDNEY PEPPER, annexed hereto, no papers were served personally upon him. The Order to Show Cause was, in fact, left in Mr. PEPPER'S office at about 4 P.M. on June 3rd., 1968, while Mr. PEPPER, was in Deponent's office dictating the annexed affidavit, and Mr. PEPPER, Deponent has been informed, was not aware of such Order to Show Cause until after he left Deponent's office.

3 - Any Special Proceedings commenced by a Notice of Petition or Order to Show Cause must contain a Verified Petition. An examination of both Motions (one by Notice of Motion and the other by Order to Show Cause) will disclose that neither contains a Petition, verified or unverified. That the proceedings of Petitioner contains affidavits, is of no consequence, since an affidavit is not a substitute for a Petition (See Stecklow Bros. v Carol Mgment. Corp. 78 NYS 2nd 427, aff'd 79 NYS 2nd 886) and since such affidavit cannot take the place of the required petition, the proceedings of the Petitioner must be dismissed (see Levine v Lending 176 Misc. 462).

4 - It should be further noted and it is academic that the Petition attached to a Notice or Order to Show Cause must be verified (See Fox v Adams 206 Misc. 236) and none of the documents attached to Petitioners papers are verified. The mere fact that in both the Notice of Motion and the Order to Show Cause, the Plaintiffs are referred to as the Petitioners and the Defendants as the Respondents does not necessarily make it so.

5 - The Petitioner in obtaining the signature of HON. FRANCIS T. MURPHY, JR., on the Order to Show Cause, set forth the basis of such Order as CPLR 2103 (b) (1) (3) and (4). I do not know whether this was an unintentional error on the part of Counsel for Petitioners to get MR. JUSTICE MURPHY, to sign the said Order, but will assume so. CPLR 2103 (b) refers only to proceedings in PENDING ACTIONS wherein personal service is not required. There is no action pending in this matter. No

Summons or other process has been served upon the Respondent, as appears from the annexed affidavit. It is apparent therefore that there is no basis upon which this Court may, in the proceedings now before it, eliminate personal service.

6 - The Motion of Petitioner commenced by Notice of Motion is further defective in that it was not served personally or not less than eight (8) days, as provided for the service of a Notice of Petition.

WHEREFORE, Deponent respectfully prays that the Motions of the Petitioner be dismissed.

JACK A. ROSEN

Sworn to before me
this 4th day of
June, 1968.

KENNETH ROSENZWEIG
Notary Public, State of New York
No. 30-8661076 Nassau County
Certificate filed in New York County
Commission Expires March 30, 19...

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

- x

In the Matter of the Application of :

MODERN TALKING PICTURE SERVICE, INC. :
a corporation organized and existing
under the laws of Delaware; :

ROSALIE M. ARLINGHAUS, as Executrix :
of the Will of Frank H. Arlinghaus;

ROSALIE M. ARLINGHAUS, as Guardian of :
Alix Ann, Frank H. and John C.
Arlinghaus;

ROSALIE M. ARLINGHAUS, individually;

HOWARD H. EBERLE, as Trustee under
trust dated May 18, 1965; and :

HOWARD H. EBERLE, individually; :

Petitioners, :

-against- :

DE WITT, PEPPER & HOWELL, a partner- :
ship consisting of Sidney Pepper and
Harry E. Howell; :

Respondents. :

- x

State of New York)
County of New York) ss.:

SIDNEY PEPPER, being duly sworn, deposes and says that he is an Attorney-at-law, duly admitted in the State of New York, and is the above-named Respondent.

That Deponent appears specially in the proceedings before this Court to contest the jurisdiction.

That HARRY E. HOWELL, the other named Respondent resides in Virginia.

Further, that Deponent has not been served with any Summons or Motion papers in the matter now before this Court. Deponent became aware of the pending proceeding because on the morning of Saturday, June 1, 1968, he found certain Motion papers in the above entitled matter in his mailbox at his home in Great Neck, New York. Deponent has never been personally served with any process, Summons or Notice of Motion in this matter.

WHEREFORE, Deponent respectfully prays that the Motion be dismissed.

Sidney Pepper

Sworn to before
me this 3rd day
of June, 1968.

JOHN IRWIN DOOLEY
Notary Public, State of New York
No. 60-3115300
Qualified in Westchester County
Commission Expires March 30, 1970

758a

NOTICE OF ENTRY

ke notice that the within is a *(certified)*

the office of the clerk of the within
n 19

7578

Yours, etc.,
DUGAN & ROSEN

ice and Post Office Address
5 WEST 43RD STREET
MANHATTAN NEW YORK, N. Y. 10036

NOTICE OF SETTLEMENT

ke notice that an order

within is a true copy will be presented
to the Hon.

dges of the within named Court, at

day of 19
M.

Yours, etc.,
UGAN & ROSEN

ce and Post Office Address
WEST 43RD STREET
ANHATTAN NEW YORK, N. Y. 10036

Index No. Year 19

SUPREME COURT OF THE STATE OF NEW YORK: COUNTY OF NEW YORK

In the Matter of Application of MODERN TALKING PICTURE SERVICE, INC. et al

Petitioner,

- against -

DEWITT, PEPPER & HOWELL, a partnership consisting of Sidney Pepper & Harry E. Howell.

Respondents.

Notice of Motion
&
Affidavit

DUGAN & ROSEN
Attorneys for Respondents.
Office and Post Office Address, Telephone
25 WEST 43RD STREET
BOROUGH OF MANHATTAN NEW YORK, N. Y. 10036
564-6320

To

Attorney(s) for

Service of a copy of the within
is hereby admitted.
Dated,

Attorney(s) for

© 1960—EXCELSIOR-LEGAL STATIONERY CO., 48 PARK PLACE, N. Y. C.

ARLINGHAUS EXHIBIT 7

COPY RECEIVED
JUN 4 1968
CASEY, LANE & MITTENDORF.
5:15 PM

June 5, 1968

BY HAND

Honorable Xavier C. Riccobono
Justice of the Supreme Court of
the State of New York
Courthouse
Centre and Pearl Streets
New York, New York

Re: In the Matter of the Application of
Modern Talking Picture Service, Inc.
Motion Cal. No. 149-June 5, 1968

Dear Justice Riccobono:

At the argument of the above motion before you this morning, respondents' counsel offered to accept a Globe Indemnity Company bond as substitute security for the books, papers, files and stock certificates held by respondents under a claim of attorneys' lien. It was agreed in open Court between counsel for all parties that the proposed sum of the bond be increased from $110,000 to $115,000 and that it be conditioned upon payment of fees for services rendered to all of petitioners. Your honor directed respondents' counsel to consult with his clients and communicate with the undersigned before 4:00 o'clock this afternoon in order to arrive at an agreement as to the wording of the bond. If the parties should fail to agree to the terms of a bond, the motion was to be considered submitted to the Court. The reason for the urgency is that there is outstanding a tender offer for the stock of the corporate petitioner, and the offer cannot be met until respondents return to the individual petitioners the Modern stock certificates owned by them and by the estate and trust which they represent.

Respondents' counsel did not communicate with the undersigned before 4 P.M. or at any other time. In other words, respondents have failed to comply with the Court's direction that they negotiate the terms of the bond with petitioners. Accordingly, it is respectfully submitted that

the Court should incorporate into a formal order the direction given by the Court this morning, with the consent of respondents' counsel, that respondents accept as substitute security a Globe Indemnity Company bond in the amount of $115,000, conditioned on payment of all legal fees due respondents from petitioners. A proposed order is submitted herewith. Copies of this letter and the proposed order are being delivered by hand to respondents' counsel at his office this afternoon.

Respectfully,

Enclosure
PJ/rb

cc: Dugan & Rosen, Esqs.

At a Special Term of the Supreme Court, Part I thereof, held in and for the County of New York, at the Courthouse, Centre and Pearl Streets, City, County and State of New York, on the day of June, 1968.

P R E S E N T :

HON. XAVIER C. RICCOBONO,

Justice.

In the Matter of the Application of	:	
MODERN TALKING PICTURE SERVICE, INC., a corporation organized and existing under the laws of Delaware;	:	
ROSALIE M. ARLINGHAUS, as Executrix of the Will of Frank H. Arlinghaus;	:	
ROSALIE M. ARLINGHAUS, as Guardian of Alix Ann, Frank H. and John C. Arlinghaus;	:	
	:	ORDER
ROSALIE M. ARLINGHAUS, individually;	:	Index No. 8982/68
HOWARD H. EBERLE, as Trustee under trust dated May 18, 1965; and	:	
HOWARD H. EBERLE, individually;	:	
Petitioners,	:	
-against-	:	
DE WITT, PEPPER & HOWELL, a partnership consisting of Sidney Pepper and Harry E. Howell;	:	
Respondents.	:	

Petitioners having instituted this summary proceeding for an order compelling respondents, their former attorneys, to return to them all books, records, papers,

files and stock certificates which are now in respondents' possession and with respect to which respondents claim an attorney's lien; and the attorneys for all of the parties having appeared in open Court on June 5, 1968; and counsel for petitioners, without conceding that respondents have a valid lien, having offered to furnish security for respondents' claim of an attorneys' lien in the amount of $115,000 in the form of a bond of the Globe Indemnity Company, 150 William Street, New York, New York, securing payment of such amount, not to exceed $115,000, as the Court shall fix as fees payable to respondents by petitioners for legal services rendered by respondents to all or any of petitioners; and counsel for respondents having agreed on his clients' behalf to accept such bond as substitute security and to return to petitioners all of their books, records, files, papers and stock certificates now in respondents' possession, it is

ORDERED, that respondents are directed to return to petitioners all of their books, records, files, papers and stock certificates now in respondents' possession upon tender to them of a bond of the Globe Indemnity Company securing payment of such amount, not to exceed $115,000, as the Court shall fix as fees payable to respondents by petitioners for legal services rendered by respondents to all or any of the petitioners.

ENTER,

J.S.C.

INDEX NO. 8982/68

SUPREME COURT OF THE STATE OF NEW YORK : COUNTY OF NEW YORK

In the Matter of the Application of MODERN TALKING PICTURE SERVICE, INC., et al.,

Petitioners,

-against-

DE WITT, PEPPER & HOWELL, a partnership consisting of Sidney Pepper and Harry E. Howell;

Respondents.

ARLINGHAUS EXHIBIT 8

ORDER

CASEY, LANE & MITTENDORF
Petitioners

ATTORNEYS FOR

OFFICE AND P. O. ADDRESS
26 BROADWAY
WHITEHALL 3-3000 NEW YORK, N. Y. 10004

SERVICE OF WITHIN

ADMITTED THE DAY OF 19

ATTORNEYS FOR

Cross-Claimants'
Ex. 6-X's for id.
5/24/72 cp

765a

LAW OFFICES
OF
DUGAN & ROSEN
25 WEST 43RD STREET
NEW YORK, N. Y. 10036

TELEPHONE 564-6320

June 5, 1968

Honorable Xavier C. Riccobono
Justice of the Supreme Court of
the State of New York
Courthouse
Centre and Pearl Streets
New York, New York

Re: In the Matter of the Application of
Modern Talking Picture Service, Inc.,
Motion Seq. No. 149-June 5, 1968

Dear Justice Riccobono:

The practice of my adversary in making misstatements has been carried from the papers submitted by him in Court into his letter to you.

Your Honor will recall that I stated I could not consent to any arrangements without my Client's authorization, yet my adversary refers to an agreement in Court made by me.

I could not reach my Client until 5 P.M. and was then advised that I could not consent to delivering the said documents, etc., since the Attorneys for the Petitioners, I am informed, have not been retained by Howard H. Eberle, one of the named Petitioners. I have been further informed, that regardless of the statements in affidavit form by Counsel, Mr. Eberle has not discharged Mr. Pepper, the respondent, and has specifically directed Mr. Pepper not to deliver up the stock and papers. It should be noted that the moving papers of the Petitioners do not contain an affidavit from Mr. Eberle.

We must therefore request that the Court act on the Cross-Motion submitted by the Respondents.

Respectfully submitted,

CC: Casey, Lane & Mittendorf

COPY

ARLINGHOUS EXHIBIT 10

767a

1919

CLASS OF SERVICE
This is a fast message unless its deferred character is indicated by the proper symbol.

WESTERN UNION TELEGRAM

W. P. MARSHALL, CHAIRMAN OF THE BOARD

R. W. McFALL, PRESIDENT

SYMBOLS
DL = Day Letter
NL = Night Letter
LT = International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination

PAO 7 AC304

A BAA033 NL PDF=BOCA RATON FLO 5: 1968 JUN 5 PM 6 01

=MRS ROSALEE ARLINGHOUS=

: PHONE 842 0790 WINDMILL LN RUMSON NJER

=THIS WILL AUTHORIZE YOU TC PICK UP ONE CERTIFICATE FOR THIRTEEN THOUSAND SHARES OF MTPS INC IN THE NAME OF THE TRUST AND FOUR HUNDRED SHARES OF THE SAME COMPANY IN MY NAME=

HOWARD H EBERLE=,

WU1201 (R2-65) THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

ARLINGHAUS EXHIBIT 9

769a

18190000

BY HAND

June 6, 1968

Honorable Xavier C. Riccobono
Justice of the Supreme Court of
the State of New York
Courthouse
Centre and Pearl Streets
New York, New York

Re: In the Matter of the Application of
Modern Talking Picture Service, Inc.,
Motion Cal. No. 149-June 5, 1968

Dear Justice Riccobono:

We are in receipt of a copy of Mr. Rosen's letter to you of June 5, 1968, suggesting, without disclosure of the source of Mr. Rosen's information, that we have not been retained as counsel by petitioner Eberle.

Enclosed herewith is the affidavit of William E. Kelly, affirming that Casey, Lane & Mittendorf has in fact been retained by Mr. Eberle for the purpose of prosecuting the instant summary proceeding in his behalf. Also enclosed is the affidavit of petitioner Rosalie M. Arlinghaus, in which she states that Mr. Eberle has authorized her to take possession of his and the Eberle trust's shares as soon as they shall be obtained from Mr. Pepper, so that she may deliver the same to the escrowee pursuant to the Unger group's tender offer. Mr. Eberle's authorization is contained in the telegram annexed to Mrs. Arlinghaus' affidavit.

We note that no affidavit has been submitted by Mr. Pepper about his purported conversation with Mr. Eberle, nor does Mr. Rosen proffer any information as to the time and circumstances thereof. Mr. Eberle's

asserted direction to Mr. Pepper not to deliver up the stock and papers is conclusively contradicted by Mr. Eberle's telegram, above referred to, directing Mrs. Arlinghaus to take possession of the Modern stock certificates belonging to him and the trust which he represents.

Copies of this letter and of the enclosed affidavit are being delivered by hand to the office of respondents' counsel this morning.

Respectfully,

PJ:mv
cc. Dugan & Rosen
By Hand

ARLINGHAUS EXHIBIT 27

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of the Application of	:	
MODERN TALKING PICTURE SERVICE, INC., a corporation organized and existing under the laws of Delaware;	:	
ROSALIE M. ARLINGHAUS, as Executrix of the Will of Frank H. Arlinghaus;	:	
ROSALIE M. ARLINGHAUS, as Guardian of Alix Ann, Frank H. and John C. Arlinghaus;	:	AFFIDAVIT Index No. 8982/68
ROSALIE M. ARLINGHAUS, individually;	:	
HOWARD H. EBERLE, as Trustee under trust dated May 18, 1965; and	:	
HOWARD H. EBERLE, individually;	:	
Petitioners,	:	
-against-	:	
DE WITT, PEPPER & HOWELL, a partnership consisting of Sidney Pepper and Harry E. Howell;	:	
Respondents.	:	

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

ROSALIE M. ARLINGHAUS, being duly sworn, deposes and says that she is one of the petitioners in this action and that she submits this affidavit to affirm that petitioner Eberle has joined in the instant summary proceeding.

1. On June 5, 1968, deponent called Mr. Eberle at his home in Florida to discuss with him ways of insuring the speedy transfer to the escrow agent pursuant

to the Unger tender offer, of the Modern shares belonging to Mr. Eberle and the Eberle trust, upon the return by Sidney Pepper of the stock certificates evidencing the ownership of those shares. It was agreed that Mr. Eberle would authorize deponent to take possession of the shares for that purpose as soon as they should be obtained from respondent Pepper.

2. During the evening of June 5, 1968, deponent received from Mr. Eberle a telegram authorizing deponent to take possession of his and the Eberle trust's shares pursuant to the agreement above referred to. A copy of that telegram is annexed hereto and marked Exhibit "A".

Rosalie M. Arlinghaus

Rosalie M. Arlinghaus

Sworn to before me this
6th day of June, 1968.

Grace C. Samwell

Notary Public

GRACE C. SAMWELL
Notary Public State of New York
No. 24-3443075
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1969

774a

CLASS OF SERVICE
This is a fast message unless its deferred character is indicated by the proper symbol.

WESTERN UNION TELEGRAM

W. P. MARSHALL
CHAIRMAN OF THE BOARD

R. W. McFALL
PRESIDENT

SYMBOLS
DL = Day Letter
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PA097 AC304

A BAA033 NL PDF=BOCA RATON FLO 5: 1968 JUN 5 PM 6 01

=MRS ROSALEE ARLINGHOUS=

: PHONE 842 0790 WINDMILL LN RUMSON NJER

=THIS WILL AUTHORIZE YOU TO PICK UP ONE CERTIFICATE FOR THIRTEEN THOUSAND SHARES OF MTPS INC IN THE NAME OF THE TRUST AND FOUR HUNDRED SHARES OF THE SAME COMPANY IN MY NAME=

HOWARD H EBERLE=

WU1201 (R2-65) THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

Index No. 8982/68
SUPREME COURT OF THE STATE OF
NEW YORK : COUNTY OF NEW YORK

In the Matter of the
Application of

MODERN TALKING PICTURE
SERVICE, INC., et al.,

Petitioners,

-against-

DE WITT, PEPPER & HOWELL,
etc.

Respondents.

PEPPER EXHIBIT UUU

AFFIDAVIT

CASEY, LA 'E & MITTENDORF
ATTORNEYS FOR Petitioners

OFFICE AND P. O. ADDRESS
26 BROADWAY
WHITEHALL 3-3000 NEW YORK, N. Y. 10004

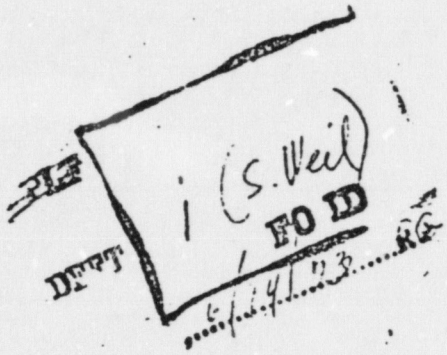
SERVICE OF WITHIN

ADMITTED THE DAY OF 19

ATTORNEYS FOR

FILED
JUN 21 1968
CO. CLERK'S OFFICE
NEW YORK

777a



(11:35 a.m. to 11:45 a.m.)

MR. WEIL: Hello.

MR. UNGER: Steve?

MR. WEIL: Yes.

MR. UNGER: Sherm.

MR. WEIL: Hi.

MR. UNGER: Let's talk a little bit about this Pepper thing.

MR. WEIL: Where are you? You sound very close.

MR. UNGER: I am. I am in town. I am over at Modern's headquarters.

MR. WEIL: You are over at Modern now?

MR. UNGER: My secretary called the message in, and I discussed the matter with Pepper once.

Am I to understand that if somebody were to reach an agreement with him, he would turn over everything he has?

MR. WEIL: Everything.

MR. UNGER: Today?

MR. WEIL: Today.

MR. UNGER: Now, there is a problem in that if we get everything, including Eberle's stock, we need to have Eberle sign it; is that not correct?

MR. WEIL: I should think that would be correct.

MR. UNGER: Right, it is, Steve.

ALLCOURT REPORTERS, INC.
PONDERANDA SUNT TESTIMONIA

Now, any agreement that would be reached with Sidney would have to be with the shareholders and it would have to be contingent upon Eberle putting his stock up, wouldn't it?

MR. WEIL: No, because I don't think you will have a problem with Eberle, once you reach your agreement with Pepper.

MR. UNGER: Then he wouldn't care if we made it contingent, would he?

MR. WEIL: I don't know. I couldn't answer that. I wouldn't think so.

In fact, you could probably get on the other phone and --

MR. UNGER: Let's go to the next step.

I don't know what he has of Mrs. Arlinghaus, but if she wants to pay him this fee that you are suggesting, I think that she ought to get everything back.

MR. WEIL: I am not suggesting that she pay or that you or that anybody, but I am saying jointly.

MR. UNGER: I understand, but I would like to make sure she gets everything back that he has.

MR. WEIL: Everything.

Here's what I would say: I'd say if Mrs.

ALLCOURT REPORTERS, INC.

Arlinghaus got everything back, that I don't think you'd have to worry about Eberle because he would go along with everybody else.

I guess you know he has a little bit of a problem right now.

MR. UNGER: Well, I don't know that he is.

MR. WEIL: You would get Eberle's stock as well, but Mrs. Arlinghaus, I do agree, should get everything back.

MR. UNGER: Let's do this, then: Let's talk about a realistic figure with that guy. Seventy-five thousand bucks is a lot of money.

MR. WEIL: Well, you know he paid, what do you call it, to Nizer, five thousand or forty-five hundred, and he paid them ten thousand that he has on retainer.

MR. UNGER: I know something about legal fees.

MR. WEIL: He said he has to get some of that forty-five hundred back; he says it cost him twelve already. The new firm is Jack Rosen.

MR. UNGER: Let me also suggest -- when you think he might tie it up for a length of time.

You know somebody has to pay those lawyers; right?

MR. WEIL: Ahem, ahem.

ALLCOURT REPORTERS, INC.
WHEREVER YOUR SUIT TESTIMONIA

MR. UNGER: It would have to be Sidney.

MR. WEIL: He said he already paid. He said he is going to shoot for his 125,000.

MR. UNGER: Maybe he should.

MR. WEIL: I can't tell you what to do.

As of right now, I think it's still settlable, like today. Monday, who knows.

MR. UNGER: You find out and call me back.

MR. WEIL: I can't. He's going to call me.

MR. UNGER: You find out in a few minutes, presumably when he calls you.

MR. WEIL: He'll call me between a quarter to twelve and five to twelve.

MR. UNGER: So we are between five to ten minutes.

I have twenty to twelve, right?

MR. WEIL: Why? It's twenty to twelve all right, is right.

MR. UNGER: You find out whether he'll accept the fifty thousand dollars; whether he'll turn over everything today or not, and then I'll find out whether anybody is interested in working it out.

MR. WEIL: We're going abo t it the wrong way.

MR. UNGER: How do you want to go about it?

ALLCOURT REPORTERS, INC.

MR. WEIL: In other words, I don't want to get involved with him, unless you are like prepared to do something.

In other words, you can't first find out and then go back to everybody. You nave to first make sure everybody is willing to go, before I talk to Pepper, because he is going off his rocker a little bit.

MR.UNGER: They are all with me now.

MR. WEIL: Right.

MR. UNGER: All I have to do is get your phone call and I'll review it.

Clearly, if I didn't have to make --

MR. WEIL: He's getting a little nutty. In fact, I think he's a little senile, to tell you the truth.

I told him he's going to make a martyr out of himself; "this is becoming an obsession with you."

MR. UNGER: Right now they are all in the offices around here someplace.

MR. WEIL: Right.

MR. UNGER: I have communicated to them what you told me at 11:00 o'clock.

I am calling you back because they asked some questions that they didn't talk about, such as, will he turn over everything; will he do it now.

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POWERFUL SPOT TESTIMONIA

I don't know the answer. Do you?

MR. WEIL: No. I'd have to ask him when he calls.

MR. UNGER: That's what I want to know.

MR. WEIL: Okay. When he calls me -- he's going to call me between a quarter to twelve and five to twelve.

MR. UNGER: I will contact Mrs. Arlinghaus and ask her what he has, but, clearly, that's an interest at this point, that she gets out everything from there.

MR. WEIL: Right. I wouldn't blame her. I would want all my materials, files, folders and everything else out too.

MR. UNGER: And that it be done today.

MR. WEIL: Yes; because with him taking off, it would be a real problem.

MR. UNGER: You take your call from him; you call me back.

MR. WEIL: Can you talk?

MR. UNGER: Sure.

MR. WEIL: You got to call me back and arrange financing.

MR. UNGER: No. I told you if we got a deal, we would listen to your financial proposal. I have the guy with me and we'll listen, and I have reviewed that

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with him.

MR. WEIL: All right.

MR. UNGER: He's here in town.

MR. WEIL: You know, I usually don't leave until about 1:00 o'clock on Friday. If you'd like, I'd be happy to meet you both.

MR. UNGER: I intended to do that, but I wanted to do that when we find out where we are.

Steve, what is there to arrange today, right?

MR. WEIL: Right.

You know, Sidney takes a month or two months off and he goes on these safaris to New Guinea, Africa, way-out places; go and try and reach him there.

MR. UNGER: I think this fifty thousand dollars might be a more realistic shot.

MR. WEIL: You could have settled it before for it Bill Oard offered him thirty-five. You figure he's got twenty-five from me and fifty from you -- this is his figuring.

MR. UNGER: I don't know what he's figuring.

MR. WEIL: But when Bill Oard came in and offered him thirty-five, that did it; he blew.

MR. UNGER: All right; you find out; call me back; it's 765-3100. I'll go out and tell the switchboard.

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MR. WEIL: 765-3100; okay.

MR. UNGER: I'm in town. They want everything from him; they want it, like, now.

MR. WEIL: I have to wait for him to call me.

MR. UNGER: All right.

MR. WEIL: Okay.

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(12:00 noon to 12:03 p.m.)

MR. UNGER: Steve?

MR. WEIL: Sherman?

MR. UNGER: Yes.

MR. WEIL: I just had a long conversation with him.

He talked to his lawyer, Jack Rosen.

He called me because he can't call me until 12:30, a quarter to 1:00.

He said, after today, because of certain things his lawyer is doing, there is no settlement; not for seventy-five, not for a hundred.

He said, either we have a settlement today or we don't, because he is going to his lawye to sign certain papers.

I said, "Look, I'm not going to give him any ultimatums or moratoriums."

He said, after today, there is no settlement for even a hundred, period.

MR. UNGER: There are a lot of people involved all over this building. I have no authority to speak for anyone. I will communicate these messages -- this message; okay?

MR. WEIL: Okay.

MR. UNGER: It will take some time, believe it or

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not. You can't just say yes or no.

Now, what am I supposed to do?

I'll tell whoever I should tell whatever the decision is, but how do you want to do it?

MR. WEIL: He is going to call me 12:30, a quarter to 1:00.

MR. UNGER: All right.

MR. WEIL: Try to get something before he calls me.

Again, don't be a _____. I can call you back.

He told his lawyer not to tell anybody where he is In fact, he's not even going home tonight.

I'll try to get you --

MR. UNGER: I will make this commitment:

When I know what the decision is, I'll let you know, but if I don't know, I'll call you at 1:00 o'clock; all right?

MR. WEIL: Okay. Call me a quarter of 1:00 to tell me you don't know.

MR. UNGER: I'll tell you what I know at a quarter to 1:00 --

MR. WEIL: Fine, Sherman.

MR. UNGER: -- one way or the other; if there's a decision or if there's no decision.

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MR. WEIL: Fine, Sherman.

MR. UNGER: I'll speak to you then.

MR. WEIL: Right.

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ALLCOURT REPORTERS, INC.
PONDERANCA SUNT TESTIMONIA

(1:17 p.m. to 1:25 p.m.)

MR. WEIL: Sherman, I just got off the phone with him.

MR. UNGER: How is he?

MR. WEIL: He is going to call me 1:30.

MR. UNGER: Okay. How long will it take him to get his agreement?

MR. WEIL: He said as soon as I get him his okay, he will call his attorney and start drawing it.

MR. UNGER: It's going to be done today?

MR. WEIL: Today.

MR. UNGER: The shareholders that are present --

MR. WEIL: He's going to call me at 1:30.

I just wish I knew it was you on the phone, I would have held him.

MR. UNGER: -- before they sign the agreement, they want to see the stuff; in other words, if you get the agreement and bring it here with all of the things Sidney is holding, and only the people that own the stuff he is holding know what it is, so they will have to review it.

MR. WEIL: I really don't know what he's holding.

MR. UNGER: We'll enter the agreement for seventy-five thousand.

MR. WEIL: Are you going to act as the attorney

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for them?

MR. UNGER: No, I am not.

MR. WEIL: Who is going to?

MR. UNGER: I don't know, as a matter of fact. I don't think that decision has been made.

MR. WEIL: I said to him, "You can't expect the seventy-five-thousand-dollar check today; nobody walks around with that in their pocket; you'll get the agreement and you'll get it."

MR. UNGER: There is nobody that has seventy-five thousand here.

MR. WEIL: I explained that to him.

He's going to call me at 1:30. You stay there and I'll call you back.

MR. UNGER: I'm keeping all these people here.

MR. WEIL: Another second, I would have called you. I was just hanging up from him.

MR. UNGER: So you talk to Sidney.

I will presume also -- what is it, about 1:00 o'clock now?

MR. WEIL: Yes.

MR. UNGER: I would think that we ought to be able to conclude it by 2:30 or 3:00 o'clock. Believe it or not, I would like to go back to Ohio.

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MR. WEIL: I believe it.

MR. UNGER: How far is his lawyer?

MR. WEIL: His lawyer, I know, is on 42nd Street somewhere; I don't know where.

MR. UNGER: Tell him to get his agreement.

Howard Eberle is not present. All others are.

MR. WEIL: Okay.

MR. UNGER: And bring the things. Somebody is going to have to review it.

MR. WEIL: That's why I want you to stay there. Okay.

In fact, I'm going to call his lawyer right now. What's his number? Did I give you his number?

MR. UNGER: No.

MR. WEIL: Jack Rosen. He gave me the number of his lawyer. I just wonder if he's over there. His lawyer might know where to reach him; if not, he's going to call me exactly at 1:30.

MR. UNGER: Is it that late? 1:25.

MR. WEIL: All right. I'll get back to you as soon as I can.

MR. UNGER: I'm still at Modern.

MR. WEIL: Okay.

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FORDERANDA SUNT TESTIMONIA

(1:30 p.m. to 1:33 p.m.)

MR. WEIL: Sherman, he didn't call me back. He's not at his lawyer. 1:30 he'll call me.

MR. UNGER: There's one point I wanted to make, to make sure you had it:

With these papers, we want his resignation as director and counsel, severing his connection.

MR. WEIL: I think you're entitled to that.

MR. UNGER: We wanted to spell it out.

MR. WEIL: You're entitled to that.

I don't think he'd want to stay anyway any more.

I'm waiting for him to call.

MR. UNGER: We'll hang around, and I was reviewing our conversation in my mind, and it ought to be done.

MR. WEIL: I agree.

MR. UNGER: Okay.

MR. WEIL: Bye.

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FONDERUNT SUNT TESTIMONIA

(1:45 p.m. to 1:50 p.m.)

MR. UNGER: Steve?

MR. WEIL: Yes.

MR. UNGER: The people involved are all in the room now, discussing the thing.

MR. WEIL: He didn't call me yet.

MR. UNGER: So keep in touch with him.

When they reach a decision, I'll let you know.

MR. WEIL: All right. He's going to call me any minute.

MR. UNGER: All I can tell you is that there is no decision yet, but it's being talked about.

MR. WEIL: Let me tell you something, Sherman:

I think one of the problems here is that either you or I should handle the whole thing right from the beginning, because if you did it that way, it would have been over with and done with; you could have taken the company already.

MR. UNGER: Let's treat the problem that we have, and the problem right now is reaching a decision, and if he has an agreement, we want to read it.

MR. WEIL: You got it. Okay.

MR. UNGER: I'll call you back as soon as I know.

MR. WEIL: All right.

MR. UNGER: You'll be there?

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MR. WEIL: I'll be here at least another fifteen, twenty minutes.

MR. UNGER: I'm still at Modern. I'm waiting to find out what's decided.

MR. WEIL: Okay.

MR. UNGER: Let's presume that by --

MR. WEIL: If I'm not here, I'll call you from the outside.

MR. UNGER: You have to keep in touch with the mystery man. I don't know where he is.

MR. WEIL: Neither do I. I'm waiting for his call right now.

MR. UNGER: This may be an exercise and if it is an exercise, I don't want to go through it.

MR. WEIL: It's not an exercise; it's an opinion, in any event. Like today he has to do one thing or the other, because he already turned all the papers over to his lawyer this morning; everything.

MR. UNGER: The stock and everything?

MR. WEIL: Everything, his lawyer has.

MR. UNGER: Is the lawyer ready to deliver them?

MR. WEIL: Well, Sidney said if we have an agreement, he'll call him and tell him to stop whatever he's doing and to deliver everything else.

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MR. UNGER: What's being discussed now is whether they want to pay him, and if so, whom.

If we reach that decision, I'll communicate it to you, and presumably somebody should get in touch and talk about what kind of agreement he wants, because they want to do it now, if they want to do it.

MR. WEIL: Okay.

MR. UNGER: I'll get back to you when I know.

MR. WEIL: All right, fine.

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(2:20 p.m. to 2:50 p.m.)

MR. WEIL: Sherman?

MR. UNGER: Steve. How are you? I was down the hall.

MR. WEIL: I just got off the phone with Sidney a moment ago. He just talked to his lawyer.

The name of the firm is Dugan & Rosen.

MR. UNGER: Dugan & Rosen.

MR. WEIL: Right, and they're located on 43rd Street, near you, and he's going down to the vault right now to get the rest of the papers that he didn't give to them out, and then he was going to go over to the attorneys' office and they'll draw the agreement and either come over to you or you go over there.

The only thing I had trouble with him on, oddly enough, is that he didn't want to resign as a director and corporate counsel.

MR. UNGER: It better be. He's agreed to that?

MR. WEIL: Yes.

MR. UNGER: I think the simplest thing, since we are talking about a number of people, is that he come to us, don't you think, really?

MR. WEIL: I agree.

MR. UNGER: We've got a whole group of people that are all kind of standing by.

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MR. WEIL: Okay.

MR. UNGER: Did he give you any kind of time?

MR. WEIL: He said he's going down to the vault right now, take the rest of the papers out that he didn't want -- I guess the stock certificates.

MR. UNGER: They are very important.

MR. WEIL: So he must be near Wall Street. He said it will take him twenty minutes to get there, before the bank closes, get them out of the vault; so I guess what he didn't give his lawyer before, he'll get now.

MR. UNGER: The agreement is between himself and the shareholders, minus Howard Eberle, because he's not here.

MR. WEIL: I said everybody except Howard, because he's in Florida; he said okay, but he said he'll make the bank before it closes.

He is going to call his attorney now and go down and get the rest of the papers now.

MR. UNGER: What time do you think that'll take?

MR. WEIL: He said it will take him twenty minutes to get to the bank.

MR. UNGER: I'm going to send out for lunch, I think. What do you think of that?

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MR. WEIL: That's a good idea.

You should have gotten rid of him two, two and a half weeks ago.

MR. UNGER: I don't have any option on getting rid of him.

MR. WEIL: Well, that's true.

Now I'm going to leave for the weekend; I don't think you need me any more.

MR. UNGER: Do you have the phone number?

MR. WEIL: No, I don't know the number of Dugan & Rosen. He gave it to me a few minutes ago. I wrote it down on a piece of paper I gave my secretary, but they're on West 43rd Street someplace; Dugan & Rosen; Jack Rosen is the attorney's name, but first, Pepper is going down to his bank to the vault to get the papers out, whatever he hadn't given the attorney, that the attorney didn't want to be, obviously, be responsible for holding on to, so it must be the Sonderling stock.

MR. UNGER: I guess it must be.

MR. WEIL: All right, Sherm, I'll be on my way.

MR. UNGER: I guess one of these days we'll get together.

MR. WEIL: All right, Sherm. I'll be back Monday.

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PEPPER EXHIBIT VVV

MEETING OF THE STOCKHOLDERS

OF

MODERN TALKING PICTURE SERVICE, INC.

HELD ON

FRIDAY, JUNE 7, 1968

AT

1212 AVENUE OF THE AMERICAS

NEW YORK, N. Y.

COMMENCING AT

1:10 O'CLOCK P.M.

PONDERANDA SUNT TESTIMONIA

ALLCOURT REPORTERS, INC.

ACCURATE COVERAGE OF JUDICIAL PROCEEDINGS AND FEDERAL HEARINGS

195 BROADWAY • NEW YORK, N.Y. 10038

227-6311

P R E S E N T:

MRS. ROSALIE ARLINGHAUS.

MR. RICHARD M. HOUGH.

MR. GEORGE VICKERS.

MR. RALPH DEL CORO.

MR. WILLIAM MacCALLUM.

MRS. ANNA SCHLERETH.

MR. HARRY BOGAARDS.

MRS. ELSIE COX.

MRS. BERTHA BROGLIE.

MR. CARL LENZ.

SHERMAN UNGER, ESQ., of
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MR. JOSEPH T. RESOR, JR.

WILLIAM E. KELLY, ESQ., and
DALE W. HAGEN, ESQ., of
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P R O C E E D I N G S

MR. KELLY: At the present time, we are at the offices of Modern Talking Picture Service, Inc.

We have in the room some of the officers of the company who are not shareholders, and as I understand it, the holders of eighty-five percent of the stock of Modern Talking Picture Service.

Is that right, Mr. Lenz?

MR. LENZ: Yes.

MR. KELLY: The only stockholder that's absent is Mr. Howard Eberle; is that correct?

MR. MacCALLUM: I represent my daughter.

MR. KELLY: But you have no authority from her.

MR. MacCALLUM: That's right.

MR. KELLY: The present situation came about, as some of you may know -- but let's just briefly run it out on the table -- by reason of the Sonderling offer that was aborted by a temporary injunction of the Delaware Chancery Court in about the second week of May.

Mr. Unger may know the exact date. What was it, May 13th?

MR. UNGER: May 13th.

MR. KELLY: We have now communicated with

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Delaware counsel and have agreed to drop that particular route.

The Board of Directors, at the meeting of May 24, 1968, officially rescinded the resolutions pertaining to Sonderling.

In the background and then coming to the foreground was Mr. Unger's offer. There was a tender offer made by Mr. Unger's group in a letter dated May 10, 1968, and as I understand it, all of the shareholders have met the terms of that tender by depositing their shares with either the bank designated by Mr. Unger or with one of their local banks, with the exception of Mrs. Arlinghaus and Mr. Eberle.

MR. UNGER: In their representative capacities.

MR. KELLY: Yes, individually and in their representative capacities.

The problem there is one of time.

Mr. Pepper, as it will be reflected in a letter that I wrote to him -- Mr. Hagen, perhaps you can get that letter out -- is holding Mrs. Arlinghaus' shares and Mr. Eberle's shares on an attorney's lien, claiming $100,000 to $110,000 to $115,000 for services allegedly rendered by him. He can't really make any adequate description of it in connection with the

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aborted Sonderling deal. Nobody that I have spoken to at the corporation, none of the officers, none of the shareholders, has any idea that this is a valid claim.

Accordingly, we have instituted proceedings which were begun by an order to show cause the day after Memorial Day, perfected on the following Monday, which was made returnable on Wednesday morning in Supreme Court, New York County, to get back those shares of stock.

In the interim, we had worked out a bond procedure that Mr. Pepper first said he would agree with and then he rescinded his agreement with respect to that.

The purpose of that is that an attorney, while he has a lien, must take adequate equal security for that obligation, so that at the very outset, when we first heard about this and then again when we went to court, we promised a bond in the sum of $110,000 and then it was raised by $5,000 to $115,000, and Mr. Pepper's attorney claimed a $5,000 higher alleged fee.

The bond did not do anything more than put money up with the security of a bonding company behind it, and would not constitute in any way an admission that anybody, Pepper or whatever, would have had the effect

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POWERS SUNT TESTIMONIA

of forcing Pepper to turn the property, the stock certificates and whatever, over to Mrs. Arlinghaus in her various capacities, and Mr. Eberle in his various capacities.

That motion was heard Wednesday morning.

Mr. Pepper's attorney came to court and denied that he ever would take a bond, that he could not find Mr. Pepper, but he would communicate with our office at 4:00 o'clock. He did not do so.

We then sent a letter to the court and asked the judge to sign it as a further delaying tactic.

There then appeared in our office a copy of a letter from Mr. Pepper's attorney, who had spoken with Mr. Pepper and understood that Mr. Eberle was not represented by our office and he wasn't going along with this entire affair.

We had anticipated that matter somewhat, and the night before had asked Mr. Eberle to send a telegram to Mrs. Arlinghaus, stating that she was, in fact, authorized to receive his shares, and the day before Memorial Day, had spoken to Mr. Eberle and had been retained by him for the sole purpose of going into court to get back his stock certificates from Mr. Pepper. That was conditioned upon his statement

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to Mrs. Arlinghaus and Mrs. Arlinghaus' statement to us that Mr. Eberle would not bear any legal costs of the proceedings, and Mrs. Arlinghaus agreed to do so.

We then go to court. The matter is still under decision.

One of the problems is, the courts are closed today, except for the Motion Term, by reason of Senator Kennedy's assassination.

We have had somebody down there, checking every hour, every two hours, for the past day or two. The order has not been signed.

We come to the event of this morning, which had a history of: A little while back, there was a suggestion -- I am not really clear about the details back about a week or so ago, that an offer would be made to Mr. Pepper to compromise his claim and the figure, I think, was $25,000 or $35,000 or $50,000. I am really not sure. I was not a party to those conversations; did not know about them until, I think it was, oh, just before Memorial Day; maybe a day or two before Memorial Day, at which point I advised Mrs. Arlinghaus and the corporation, through Mr. Lenz; that advice to the corporation did not come to Mr. Lenz until the day after Memorial Day, but I

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advised Mr. Vickers at the same time I advised Mrs. Arlinghaus, about the 28th of May, that unless somebody could tell me a reason why Pepper should get any money whatever, I would have to simply characterize this as a scheme of blackmail. I could not recommend it.

I put it to Mrs. Arlinghaus that I understood, in many cases businessmen and women having themselves in a position for one reason or another and having to make a decision, might succumb to the temptation and pay it for their own good reasons. That was entirely their decision to make. I wasn't casting any aspersions on them, but I and our firm, in fact, would not recommend the payment of blackmail to anybody at any time, particularly in this situation where Mr. Pepper, on the face of it, did not have any claim whatever to any money as far as anyone has been able to tell me.

Now, that's what happened on the 28th of May.

The idea of paying Mr. Pepper any money was dropped.

We got into the asset situation, where we are, to sell the assets to Mr. Unger.

MR. UNGER: May I interject?

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You passed a resolution on May 24th.

MR. KELLY: Yes; on May 24th, a committee of Mr. Oard and Mrs. Arlinghaus or her representative was appointed to negotiate a contract for the sale of the assets of the corporation to Mr. Unger's group, subject to the approval of the Board of Directors and the stockholders.

There are two particular ways that this deal can go:

Either you could meet the terms of the tender offer, or you could simply sell the assets.

The cleanest way is to sell the stock. It's meeting the tender offer and if we had Mrs. Arlinghaus' stock and Mr. Eberle's stock, we could meet the terms of that tender.

Mrs. Arlinghaus and Mr. Eberle have written to Mr. Unger, and Mr. Unger will acknowledge receipt of the letters, saying they intend to do that, but they don't have the stock.

MR. UNGER: That is correct, and I have a copy of the letters.

MR. KELLY: So the intention of everybody is to sell to Mr. Unger's group.

The question is, what's the best way.

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This morning I came up here; the asset sale was being proposed.

There are several technical difficulties, basically because we don't have --

MR. UNGER: Can we get on with the Pepper problem? I thought we are assembled ad hoc.

MR. KELLY: Why don't you let me finish.

MR. UNGER: Because you are going on endlessly.

Let's get back to the problem we have at the moment, without talking about any difficulties you think you see.

MR. KELLY: I think we have difficulties with the asset deal.

The fact is, that is a route that can be gone.

The next route is, we were told that there had been communications with Mr. Pepper, whereby Mr. Pepper now indicated he would want $75,000.

I have taken the same position with respect to that $75,000 as I took with respect to the prior figures of $25,000, $35,000 or $50,000: I will not recommend it; I will not advise it.

Mr. Unger, who is present in the room, has talked to a Mr. Weil, who has some connection with Mr. Pepper and at least can be in contact with Mr. Pepper, and we

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have recorded, by the stenographer who is taking these minutes at this time, two of those conversations. She was out of the room at one point, but at that point Mr. Unger and myself were on the phone, listening

MR. UNGER: It was Weil that called me.

MR. KELLY: Yes.

MR. UNGER: I want to start with that comment.

MR. KELLY: Why don't you tell us how it came about and what the background is.

MR. UNGER: I met Steve Weil the first time during Dick Hough's litigation in Wilmington.

Subsequently, he called me and said, "It looks like you're going to get the company. Can I loan you the money?"

And I said, "Apparently you don't know that we already have a commitment from the bank; our tender offer is out. We have the financing."

He said, "Let's keep in touch."

I said, "I'll be around; if you want to talk with me, fine."

I have heard at the trial that he was being paid by Sonderling, and I think he was being paid by Harry Shapiro that was with Pepper, and it was pretty clear that he was in contact with Pepper's office.

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He called me -- I have to look at my calendar in my office, but he called me a couple of weeks ago, sometime after the May 24th meeting, so probably the Monday or Tuesday that followed it.

He said that he understood that one of the shareholders had contacted Pepper and talked about a twenty or twenty-five-cent-a-share payment to Pepper to release the stock and dispose of it.

He said that Pepper wanted a hundred.

I duly passed that on to, I think, everybody, at least the number of people that I was in contact with on May 28th.

I know that on a Tuesday, May 28th, I know that Weil called again. He advised that Pepper would take $50,000 if he, Weil, handled the transaction, whatever that means, and I suggest that maybe Weil is getting part of what Pepper is getting, but I don't know that.

I called Mrs. Arlinghaus that day. I think I talked it over with Carl Lenz first; I am not positive I have to look in my records, but I know I talked with Mrs. Arlinghaus and said that Sidney's offer amounts to fifty cents a share and that that would resolve the matter, and, in addition, he is holding a number of things, Mrs. Arlinghaus' Sonderling stock; he has a

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number of things.

MRS. ARLINGHAUS: And the corporate records.

MR. UNGER: I said, "This amounts to roughly fifty cents a share; what do you think?"

I had the impression that at that moment she was disposed to resolving the matter quickly.

I communicated that to Mr. Kelly, he was her counsel, and I think I talked with him the same day.

Subsequently, I learned that there was no interest in doing anything with Pepper, except fighting him in the courts.

I am a buyer; I am not involved, except peripherally at this point.

I heard again from Weil and I told Weil that as far as I know, no one wants to pay Pepper anything.

I don't think I heard from Weil all of this week; as a matter of fact, I am virtually positive I did not

This morning, about 11:00 o'clock, I am standing here and one of the ladies in the company handed me this note that my secretary had called that a Steve Weil from New York City, telephone number 581-1670, had called and asked me to call him. So I called him on this telephone in Carl Lenz's office.

Tom Resor, who is associated with me in this

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acquisition, got on the phone so that I had a witness to my conversation with Weil.

Weil's conversation, in essence, was that Pepper would give up everything for $75,000. I listened to him; I communicated that to the people that were in the room at the time; we discussed it; it wasn't rejected or accepted, but some questions came up concerning what he would do and what are we talking about besides paying $75,000, and I called Weil back, and I believe we have a transcript of that conversation, and what he said is that Pepper would cause his lawyers to draft an agreement whereby he would be paid $75,000; if that agreement were entered into, he would turn over all of the things, corporate records, stock certificates, everything he is holding that concerns this group of people.

He asked me to call him back at a quarter to 1:00, and that was the conversation that you witnessed.

I think we had another call in between. I called him and asked him about that. Then he somehow was in communication with Pepper. He tells me Pepper is calling him; he doesn't know where he is. Pepper is going out of the country on Monday and if we don't

ALLCOURT REPORTERS, INC.

resolve this, we won't be able to do it for two months.

It sounds to me, strangely, like great pressure or blackmail.

In any event, I communicated that to these people, calling him back at a quarter of 1:00, and the conversation, you heard, which was that I didn't know what the decision was. I volunteered the opinion that, as a matter of law, it would seem to me that if an agreement were entered into with Pepper along these lines, Pepper would have great difficulty in ever enforcing that contract. I had the impression that that general opinion was joined by Mr. Kelly and Mr. Hagen. Of course, they can speak for themselves.

I suppose we are gathered here today to decide what course of action should be taken as to Pepper.

I think it's a fair statement to say that if we are forced to go the asset route, the shareholders will not net $27 a share; there would be a recapture of depreciation, which is a tax provision that, in effect, provides that certain property that was depreciated below market value and is sold for more money, the difference is taxable as regular income.

Mr. Pepper's offer is something around seventy-five or eighty cents or maybe a dollar a share,

ALLCOURT REPORTERS, INC.

depending on how it's broken down.

I think that the recapture of depreciation would run a dollar, at least, and maybe $1.25, I am not sure what it would be, and it's negotiable with the IRS, but I think it's clear in my mind that it's both faster and less expensive to the shareholders, as a matter of economics, to resolve the thing this way.

I have no recommendation, except to state that this is the situation.

I will answer any questions you have. I don't mean to leave anything out. I think I have given you everything.

Mr. Kelly, you may want to supplement that.

MR. KELLY: Yes. Our general position as attorneys is, we would advise, of course, as we have advised Mrs. Arlinghaus and Mr. Eberle, that the easiest, the quickest way is to get the stock back from Pepper and tender the sale of the assets, which, with complications and tax-wise, may work out to not $27 a share as Mr. Unger indicated.

The problem is getting the shares from Mr. Pepper

If you have any questions, you may ask them.

MR. UNGER: I think that Pepper's agreement, if an agreement is entered into, is as good as the courts

ALLCOURT REPORTERS, INC.

will say it is, and it seems to me that if this isn't an agreement that's entered into under coercion, it's a near relative.

MR. KELLY: Naturally, we couldn't give an opinion as to the ability to get out of the thing until we see what it is.

He will, undoubtedly, want general releases and a variety of things on paper and it would then have to come in under threat and duress.

There is also the possibility that he may demand some cash today, if there is any way he could do it.

MR. UNGER: We did tell him that there was no cash available.

MR. KELLY: We tried to say it couldn't be done on a cash basis; it would have to be an agreement.

I suspect, really, he wouldn't want to take it quite that way; he would want to work out some suitable device for his attempted thievery and losses.

MR. LENZ: For the benefit of you stockholders, departing the legal aspects, which I respect and agree that none of us particularly in this room, either as shareholders or as corporate officers, are particularly interested in seeing one Mr. Pepper get a dime.

By the same token, Frank Arlinghaus along with

ALLCOURT REPORTERS, INC.

several others here started this company and through no fault of Rosalie, she is in a bind because this man, Pepper, has all the certificates, as explained, and it goes beyond this particular transaction; it goes to the Sonderling shares as a result of the Teleservice sale.

There are many things that can happen. We all hate to have to knuckle down to an individual who, at least, has very doubtful ethics, and I am being very kind when I say that, but the point remains, if Pepper elects to run away for two months, there is possibly no acquisition of the shares from him.

Once again, Mrs. Arlinghaus has nothing but a home in Rumson, to speak of, and some lovely children.

I am not going to get too emotional about this. I am just going to be practical about it.

Pepper is also a man who has had several coronaries and he has been under a strain. It hasn't been joyous for him. After all, he did lose in court.

Suppose he passes away? Supposing this thing goes into his estate? This would drag on for a couple of years, possibly, and I want two things to happen: I want Rosalie to get her money, as I want all of you shareholders to get your money, and I want to see the

ALLCOURT REPORTERS, INC.

sale of the company consummated with Unger, because this is the election and decision of the Board of Directors at the meeting of the 24th.

Now, we can sit on our high principles from now until 1970, perhaps, or we can say that it's smarter, perhaps, to pay him this $75,000 prorated among the shareholders and come to a sensible conclusion on the thing, which, I think, is in the interest of business, and you all, for the most part, are employees of the company and the company is not benefitting by this long drawn-out legal hassle.

At the same time, it would give Mrs. Arlinghaus some financial security as well as give you people approximately $26 a share.

It's entirely up to you people which way you want to go.

You have all tendered this stock to Modern Media, Incorporated, which is the name under which Sherman Unger and his financial partners will operate.

There is also the opinion, and only an opinion and not a legal opinion, expressed by one shareholder that there might be a generous judge who possibly even in a case would allow Sidney to get something, and while I have tremendous respect for all the legal minds that

ALLCOURT REPORTERS, INC.

are here, they cannot guarantee that this could not take place, no more than I can guarantee you that tomorrow it will be clear.

So here we come down to a matter that couples both principle and practicality, and I think at this time I have covered the basis of the thing, but, certainly, it now is no longer here with us; it's among you shareholders to decide, and, Rosalie, if you want to speak in behalf of your own situation, or Bill or any of you, please do.

MR. UNGER: We are not changing the name of the company.

MR. DEL CORO: I have a question, Carl.

We are speculating or guessing that this negotiation with Weil could be fruitfully concluded today; is that right?

MR. LENZ: It's been intimated.

MR. UNGER: He said so.

MR. DEL CORO: Can a stockholder take parallel actions? In other words, can we authorize the negotiation with Weil, and if that should fail, then accomplish the asset sale?

MR. KELLY: That's a strain on the lawyers.

MR. DEL CORO: Are we going to sit around here

ALLCOURT REPORTERS, INC.

or what?

MR. UNGER: The answer is, in my judgment, that you can do both.

MR. LENZ: Yes, I think so.

This is, at the moment, an ad hoc situation.

MR. BOGAARDS: I told you a long time ago I am willing to pay Sidney and get it over with.

MR. HOUGH: I don't know if a motion is in order.

MR. LENZ: This is not a formal meeting.

MR. HOUGH: We ought to make every effort to accept the Weil offer.

MRS. COX: Can we trust him, though, that he will come through?

MR. BOGAARDS: We are not paying him anything until he does.

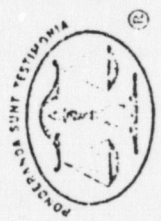
MR. LENZ: Are there any shareholders here that disagree about trying to come to this conclusion as outlined, in other words, taking a prorata amount out of each of your shares to pay Pepper to get this thing freed up?

MR. BOGAARDS: Absolutely not. We agree.

MR. LENZ: Completely unanimous.

MR. KELLY: With the exception that Mr. Eberle has stated to me that he won't bear any share of this.

ALLCOURT REPORTERS, INC.



Maybe Mrs. Arlinghaus can talk to him; maybe you can get him on the phone now.

MR. LENZ: You may have to bear E erle's fifteen percent.

MRS. ARLINGHAUS: I'll get it out of him.

MR. MacCALLUM: I would just like to appraise what we are talking about.

Sandy and I own 14.28 percent of the company.

If Eberle does not pay and the rest of us pay it, it would raise my share to 17 exactly, so that that is the small difference that we are talking about.

MR. HOUGH: May I ask another question?

MR. LENZ: Yes.

MR. HOUGH: We have agreed and almost everyone has agreed to this procedure.

After this procedure is consummated, is there any other legal action or anything else that we can take?

MR. KELLY: What it would be is, I suppose -- we still haven't worked out the form -- it would be an agreement by the shareholders to pay him, and if it's only an agreement and you didn't pay him, he would have to go to court for you to pay him that and we may set up a duress and coercion case.

MR. LENZ: It's hard for me to believe that the

ALLCOURT REPORTERS, INC.

gentleman, operating as he has in the past, would just take a piece of paper.

MR. KELLY: He has indicated and intimated to Mr. Unger that it would be that way.

MR. UNGER: Weil indicated.

MR. KELLY: But we don't know until we talk to him.

MR. LENZ: It's hard to believe.

We seem to have a unanimous agreement -- correct me if I am wrong -- among you shareholders that you want to take the route to confer with Weil.

MR. UNGER: If this is the will of the group, why don't I call Weil and ask him to get the things over now.

MR. KELLY: He has probably got a whole batch of Mrs. Arlinghaus' papers up there, and I would want somebody to go up there and get them.

MR. UNGER: I was not talking to Weil solely about acquiring the Modern stock; I told him I wanted everything belonging to any member of this group, particularly to Mrs. Arlinghaus in her several representative positions and Mr. Eberle's, and I don't know if anybody else has anything there that might be covered. This might be the time to think about it.

ALLCOURT REPORTERS, INC.

MR. HOUGH: Let's make the call.

MR. LENZ: All right.

MR. UNGER: I would like to continue recording my conversation.

MR. KELLY: Yes, we would want to record all these conversations.

(Whereupon, at 2:00 o'clock p.m., the foregoing was concluded.)

oOo

ALLCOURT REPORTERS, INC.

ARLINGHAUS EXHIBIT 31

BY HAND

October 2, 1973

Benjamin A. Matthews, Esq.
Harper & Matthews
60 Wall Street
New York, New York 10005

Re: First National Bank of Cincinnati
vs. Sidney Pepper, et al.

Dear Mr. Matthews:

We deliver to you herewith a copy of a transcript of the portion of the proceedings at the meeting of the stockholders of Modern Talking Picture Service, Inc. on June 7, 1968.

The transcript was not certified by the reporter to be correct and was not submitted for review or correction by those whose statements are recorded. I note, for example, the following obvious error in my own recorded statement:

At page 6 the following statement appears:

"We then sent a letter to the Court and asked the judge to sign it as a further delaying tactic."

One or more words are omitted after the word "it". My statement, in substance, was that we asked the judge to sign our proposed order as a precaution against further delaying tactics on the part of Mr. Pepper.

Very truly yours,

WEK:mv
Enclosure

PEPPER EXHIBIT A

MEMORANDUM

Memorandum of Agreement made this 7th day of June, 1968, in the City of New York, by and between Sidney Pepper, an Attorney practicing law under the name of De Witt, Pepper & Howell, in the City of New York, hereinafter called "Pepper" and all of the parties who have hereunto subscribed their names at the end of this instrument, (being the owners of approximately 86% of the outstanding stock of Modern Talking Picture Service, Inc.) hereinafter jointly called the "Stockholders".

WITNESSETH

Whereas, Pepper has heretofore performed numerous and varied legal services for the Corporation and the Stockholders consisting of negotiations, agreements, meetings, etc., with the view towards selling either the assets or the stock of the Corporation; and

Whereas, Pepper is presently holding certain Stock Certificates, books, records and papers belongin g to some of the STockholders and to the Corporation; and

Whereas, the parties hereto desire to settle their differences and enter this agreement;

Now, Therefore, in consideration of the mutual covenants herein contained, it is agreed as follows:

1. That heretofore Pepper has claimed approximately $116,000 in legal fees and disbursements against the Stockholders and the Corporation for which he has impressed a lien.

2. The Stockholders and the corporation have heretofore denied the validity of the said Pepper claim and lein.

3. There is a proceeding now pending in the Supreme Court, New York County under Index #8982/68 to require the said Pepper to deliver up the said Stock Certificates, books and papers upon which he has claimed a lien and the parties hereto now desire to adjust their differences.

4. Accordingly, the parties hereto agree that there shall be paid to Pepper, in full satisfaction of all claims for services rendered to the Stockholders and the Corporation, the sum of $75,000. The said sum is to be paid by the Stockholders only to Sidney Pepper pursuant to the executed assignment attached hereto and made a part hereof.

5. Upon receipt of the said $75,000, Pepper shall have no further claim of any kind or type against any of the Stockholders or the Corporation and the Stockholders on one hand and Pepper on the other hand shall fortwith exchange general releases, releasing each other, *

6. The Stockholders also warrant and represent that they are executing this agreement and the assignment of the $75,000 of proceeds of their own free will in the presence of each other and ~~of their~~ Attorney, William E. Kelly, Esq., who is present at the execution of this agreement.

7. In the event the Sherman Unger Group do not purchase the corporate stock of the Stockholders on or before June 24, 1968, then it is hereby agreed that the Stockholders and the Corporation, individually and jointly shall restore said Pepper to the same position he held prior thereto and shall cause themselves and the Corporation to return the stock and papers which he has this date delivered to them, so as to reinstate his lien.

* except for any promisory notes executed by Mariam J. Pepper, John J. Lipsky and any collateral security for said notes and, in addition, Pepper agrees to execute and deliver a general release to

8. Pepper agrees to cause Edmund H. Cox to deliver a written resignation as Director of Modern Talking Picture Service, Inc. to said Corporation on or before June 14 , 1968.

In Witness Whereof, the parties have executed this agreement this 7th day of June, 1968

Sidney Pepper

Sidney Pepper

MODERN TALKING PICTURE SERVICE, INC.

By

Stockholders

Anna Marie Schlozette

Harry W. Bazzards

Wm. H. MacPallum

Alexandra MacPallum per W.H.M.

Edmund H. Cox

Rosalie M. Arlinghaus

Rosalie M. Arlinghaus, Individually, as Executrix under Will of Frank H. Arlinghaus and as Custodian for each and all of her children

Bertha A. Broyles

Richard W. Hough

Sam DeCoco

Alix Ann Arlinghaus

Alix Ann Arlinghaus

839a

Cable received 7:53 PM EDT, N.Y.C. June 7, 1968
Sherman Unger

Dated: June 7, 1968

We, the undersigned, hereby irrevocably convey, transfer and assign unto Sidney Pepper, His heirs, assigns and representatives, from the funds due and payable to us on the sale of our stock in Modern Talking Pictures Service, Inc., the sums of money set opposite our signatures, and we do hereby direct the Purchasers of the said stock, to pay the said sums assigned to Sidney Pepper to his attorney, Jack A. Rosen, as attorney for said Pepper, out of the first monies due to us on the said sale of our stock. We also direct that the said sums due to Pepper shall be paid simultaneously with the balance of the purchase price of the stock being paid to us. The purchasers referred to are the Sherman Unger Group.

Rosalie M Arlinghaus As Executrix of the Estate of Frank H. Arlinghaus	$ 37,842.17
Rosalie M Arlinghaus ~~Individually~~	$ 3,236.74
Rosalie M Arlinghaus As Custodian for Frank Arlinghaus, Jr.	$ 2,543.16
Rosalie M Arlinghaus As custodian for John C. Arlinghaus	$ 2,543.16
Wm. H. MacCallum Wm. H. Mac Callum	$ 11,236.13
Alexandra MacCallum per Wm. H. Alexandra Mac Callum	$ 1,248.46
Anna Marie Schlereth Anna Marie Schlereth,	$ 8,114.98
Harry W. Bognards Jr. Harry W. Bognards Jr.	$ 4,369.61
Elsie W. Cox Elsie W. Cox	$ 554.87
Richard M. Hough Richard M. Hough	$ 462.39
Ralph Del Coro Ralph Del Coro	$ 231.19
Bertha A. Broglie Bertha A. Broglie	$ 73.98
~~TOTAL~~	$ ~~XXXXXXXXXXXXXXX~~
Rosalie M Arlinghaus As Custodian for Alix Ann Arlinghaus	$ 2,543.16
TOTAL	$75,000.

PEPPER EXHIBIT A-1

832a

June 7, 1968

Modern Talking Picture Service, Inc.

Received of Sidney Pepper, 22, 971 shares of Sonderling Broadcasting Corporation stock.

Rosalie M Allen Ghaus

Received of DeWitt, Pepper & Howell, Esqs. Modern Talking Picture Service, Inc. stock certificates as follows:

Certificate No.	Name	No. of Shares
4	Rosalie M. Arlinghaus, Executrix of the Estate of Frank H. Arlinghaus	40,920
5	Rosalie M. Arlinghaus	3,500
6	Rosalie M. Arlinghaus as Custodian for Alix Ann Arlinghaus a minor U/P.L. 1955, Chapter 139 of the laws of New Jersey	2,750
7	Rosalie M. Arlinghaus as Custodian for Frank H. Arlinghaus, Jr. a minor U/P.L. 1955, Chapter 139 of the laws of New Jersey	2,750
8	Rosalie M. Arlinghaus as Custodian for John C. Arlinghaus a minor U/P.L. 1955, Chapter 139 of the laws of New Jersey	2,750

Dated: June 7, 1968.

Rosalie M. Arlinghaus

Rosalie M. Arlinghaus

Received of DeWitt, Pepper & Howell, Esqs. checkbooks of the Estate of Frank H. Arlinghaus from checks 1 through April 1968, certificate of trusteeship and certificate of probate of executorship of the estate of Frank H. Arlinghaus and probate copy of will and letters testamentary.

Dated: June 7, 1968.

Rosalie M. Arlinghaus

Rosalie M. Arlinghaus

Received of Sidney Pepper

Modern Talking Picture Service, Inc.

Stock Certificates 18 and 19 for 400 and 13000 shares pursuant to the authorization of Howard H. Eberle, June 7, 1968

Rosalie M Arlington

Def Pepper Ex 37 for id
836a 9/12/75 B

Received of DeWitt, Pepper & Howell, Esqs., stock certificate book and stock record book of Modern Talking Picture Service, Inc. and four minute books of Modern Talking Picture Service, Inc. covering the period from 1936 through April 8, 1968.

Dated: June 7, 1968.

MODERN TALKING PICTURE SERVICE, INC.

By A. K. Terry, Pres.

837a

June 7, 1968

I received from M. Howard Eberle this date the following Modern Talking Picture Service, Inc. stock certificates

No.	Name	No. of shares
18	Howard H. Eberle	400
19	Howard H. Eberle and Howard H. Eberle Jr. Trustees U/A Dated May 18, 1965	13,000

for delivery to The First National Bank of Cincinnati in connection with tender offer dated 5-10-68

George D. Vickers

PEPPER EXHIBIT IIII

FROST & JACOBS

H. J. SIEBENTHALER
WILLIAM R. SEAMAN
R. O. KLAUSMEYER
CHARLES O. PUCHTA
JAMES O. HEADLEY
CHARLES A. ATWOOD
HENRY W. HOBSON, JR.
JOHN C. EBBERT, JR.
RALPH P. WANLASS
SHERMAN UNGER
DENNIS J. BARRON
JERRY L. COWAN
EARL R. HUFFMAN
JAMES S. WACHS
JOHN K. ROSE
BRUCE F. LOWE
HELEN DAHMANN

WILLIAM K. HOSKINS
RONALD E. HEINLEN
DONALD McG. ROSE
JAMES R. ADAMS
WILLIAM D. BASSETT III
JOHN C. NEWLIN
JOHN S. STITH
F. BRUCE ABEL
DAVID O. DODGE
LEO C. WILKERSON
ROBERT A. DIMLING
T. STEPHEN PHILLIPS
THOMAS A. LUEBBERS
JOHN A. WEET
THOMAS P. MEHNERT
RANDOLPH J. STATIN

HUBERT T. CAMPBELL
FRANCIS L. DALE
COUNSEL

HENRY G. FROST, 1919-1951
CARL H. JACOBS, 1919-1967

2300 CENTRAL TRUST TOWER
CINCINNATI, OHIO 45202

TELEPHONE 513 621-8550
CABLE ADDRESS "FROSTJAC"

June 17, 1968

Jack A. Rosen, Esquire
25 West 43rd Street
New York, New York

Dear Mr. Rosen:

Pursuant to my letter of June 10, 1968, a copy of which was forwarded to you, I delivered to The First National Bank of Cincinnati an executed copy of the Memorandum and Assignment dated June 7, 1968 between your client, Sidney Pepper, and certain stockholders of Modern Talking Picture Service, Inc. Subsequent thereto, I received the enclosed telegrams from what appears to be all of the stockholders that executed said agreement with the exception of William MacCallum and Alexandria MacCallum. In addition, I received in the mail the attached "counter assignments" from Mrs. Arlinghaus in her several capacities, Miss Cox, Mr. Del Coro, Miss Broglie, Mrs. Schlereth and Mr. Hough. I have not yet received anything in writing from Mr. Bogaards.

As I advised you when you called earlier this afternoon, the matter did close on Friday and I withheld the entire $75,000 until it could be determined to whom payment should be made. It is, for your information, being held in The First National Bank of Cincinnati.

In addition, and much to my surprise, Modern Talking Picture Service, Inc. was presented with a substantial statement from the firm of Casey, Lane & Mittendorf for their efforts to recover from Mr. Pepper the corporate books and records. I am given to understand that an additional statement was rendered for their services to Mrs. Arlinghaus for recovering the estate

papers and stock certificates, etc. that were hers. Since my firm has been retained as General Counsel for Modern, I do have a vital interest in this fee. I am, also, now advised that an additional fee will be forthcoming from Wilmington, Delaware.

In any event, it is the desire of the purchasers, for whom I am also counsel, that the disposition of the $75,000 be resolved as expeditiously as possible. I shall await your suggestions on what might be done to resolve the matter to the satisfaction of all parties or, if this is an impractical goal, shall await appropriate direction as to the disposition.

Pursuant to our conversation this afternoon, I am sending this with enclosures airmail special delivery.

Very truly yours,

FROST & JACOBS

By Sherman Unger

SU:ll
Enclosures
cc: Mr. Wm. H. MacCallum
Mr. H. W. Bogaards, Jr.
Mrs. Rosalie Arlinghaus
Mr. Richard M. Hough
Miss Anna Marie Schlereth
Miss Bertha A. Broglie
Mr. Ralph Del Coro
Miss Elsie W. Cox
Dale Hagan, Esquire

EXHIBIT 6

COUNTER-ASSIGNMENT

I hereby revoke my transfer and assignment of all sums to Sidney Pepper under the Assignment dated June 7, 1968 and direct that either said sums be delivered to me or placed in escrow.

Richard M. Hough

Richard M. Hough

Dated: June 12, 1968.

Exhibit 7

COUNTER-ASSIGNMENT

I hereby revoke my transfer and assignment of all sums to Sidney Pepper under the Assignment dated June 7, 1968 and direct that either said sums be delivered to me or placed in escrow.

Anna Marie Schlereth

Anna Marie Schlereth

Dated: June 12, 1968.

Exhibit 8

COUNTER-ASSIGNMENT

I hereby revoke my transfer and assignment of all sums to Sidney Pepper under the Assignment dated June 7, 1968 and direct that either said sums be delivered to me or placed in escrow.

Bertha A. Broglie

Bertha A. Broglie

Dated: June 12, 1968.

8

Exhibit 9

COUNTER-ASSIGNMENT

I hereby revoke my transfer and assignment of all sums to Sidney Pepper under the Assignment dated June 7, 1968 and direct that either said sums be delivered to me or placed in escrow.

R. Del Coro

Ralph Del Coro

Dated: June 12, 1968.

Exhibit 10

COUNTER-ASSIGNMENT

I hereby revoke my transfer and assignment of all sums to Sidney Pepper under the Assignment dated June 7, 1968 and direct that either said sums be delivered to me or placed in escrow.

Elsie W. Cox

Elsie W. Cox

Dated: June 12, 1968.

Exhibit 3

COUNTER-ASSIGNMENT

I hereby revoke my transfer and assignment of the sums opposite my signature to Sidney Pepper dated June 7, 1968 and direct that such sums be placed in an escrow account in accordance with my authorization of escrow directed to The First National Bank of Cincinnati.

Rosalie M. Arlinghaus — $37,842.17
As Executrix of the Estate of
Frank H. Arlinghaus

Rosalie M. Arlinghaus — $ 2,543.16
As Custodian for
Frank Arlinghaus, Jr.

Rosalie M. Arlinghaus — $ 2,543.16
As Custodian for
John C. Arlinghaus

Rosalie M. Arlinghaus — $ 2,543.16
As Custodian for
Alix Ann Arlinghaus

Rosalie M. Arlinghaus — $ 3,236.74
Individually

Dated: June 11, 1968.

3

Exhibit 4

CLASS OF SERVICE
This is a fast message unless its deferred character is indicated by the proper symbol.

WESTERN UNION
TELEGRAM

SYMBOLS
DL = Day Letter
NL = Night Letter
LT = International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination

1248A EDT JUN 13 68 CTA016 BAC010
N UJA164 PDB UJ NEWYORK NY 12 317P EDT
SHERMAN UNGER 2300 CENTRAL TRUST TOWER CIN
PLEASE BE ADVISED THAT WE HAVE BEEN AUTHORIZED TO CONVEY ON BEHALF OF THE FOLLOWING INDIVIDUALS THE FACT THAT THEY HAVE REVOKED THEIR TRANSFER AND ASSIGNMENT OF SUMS TO SIDNEY PEPPER UNDER THE ASSIGNMENT DATED JUNE 7, 1968 AND DIRECT THAT SAID SUMS BE DELIVERED TO THEM OR PLACED IN ESCROW: ROSALIE M. ARLINGHAUS, IN ALL HER CAPACITIES; ANNA MARIE SCHLERETH: ELSIE W. COX RICHARD M HOUGH, RALPH DEL CORO; BERTHA A. BROGLIEM. WRITTEN CONFIRMATION TO FOLLOW
CASEY LANE MITTENDORF
(23).

SF1201(12-65)

ARLINGHAUS EXHIBIT 16

TELEPHONE WORTH 4-4040

NEW YORK 5, N. Y.

December 29, 1964.

Mrs. Rosalie M. Arlinghaus
Windmill Lane,
Rumson, New Jersey.

TO DEWITT, PEPPER & HOWELL, DRS.

COUNSELLORS AT LAW

120 BROADWAY

TO PROFESSIONAL SERVICES in connection with the procurement of payments from Modern Talking Picture Service, Inc. as the widow of Frank H. Arlinghaus $7,500.00

RECEIVED PAYMENT: January 4, 1965
DeWitt, Pepper + Howell

ARLINGHAUS EXHIBIT 17

TELEPHONE WORTH 4-4040

NEW YORK 5, N. Y.

851a

Estate of Frank H. Arlinghaus,
C/O Mrs. Frank H. Arlinghaus,
Windmill Lane,
Rumson, New Jersey.

June 30, 1967

TO DEWITT, PEPPER & HOWELL, DRS.

COUNSELLORS AT LAW

120 BROADWAY

TO PROFESSIONAL SERVICES

Disbursements to June 30, 1967

Telephone including toll calls	$ 60.32	
Postage	37.65	
Miscellaneous	94.08	
Surrogate's Court certificate	1.00	
	$193.05	$193.05

RECEIVED PAYMENT:

July 2d

ARLINGHAUS EXHIBIT 18

FILED OCT-9 1970

Louis R. Aikins
Surrogate

PITNEY, HARDIN & KIPP
570 BROAD STREET
NEWARK, N. J. 07102
201-623-1980
ATTORNEYS FOR Plaintiff

MONMOUTH COUNTY COURT
PROBATE DIVISION
DOCKET NO. 7783I

In the Matter of the Estate :
of :
FRANK H. ARLINGHAUS, :
Deceased. :

Civil Action
On First Intermediate Account
ORDER TO SHOW CAUSE

Upon reading and filing the Verified Complaint of Rosalie M. Arlinghaus as Executrix of the Last Will and Testament of Frank H. Arlinghaus, deceased, in which application is made, inter alia, for the settlement of her First Intermediate Account covering the period from August 24, 1964 to September 1, 1969 inclusive;

It is on this 9th - day of October, 1970, on motion of Pitney, Hardin & Kipp, attorneys for plaintiff,

ORDERED that all interested persons named in paragraph 11 of said Complaint (except DeWitt, Pepper & Howell, Dorothy DeWitt, as Executrix of the estate of Benjamin P. DeWitt,

deceased, Sidney Pepper and Louis Ogust) show cause, if any there be, before this Court on Friday the 4th day of December -- 1970 at 9:30 o'clock in the forenoon or as soon thereafter as counsel may be heard, at the Monmouth County Court House, Freehold, New Jersey, why judgment should not be entered herein;

(a) Allowing in all respects as stated the First Intermediate Account of Rosalie M. Arlinghaus as Executrix of the Last Will and Testament of Frank H. Arlinghaus, deceased;

(b) Approving the resignation of Clemens G. Arlinghaus as one of the trustees under said Will and relieving and discharging fully and finally the said Clemens G. Arlinghaus of all further duties as trustee under said Testator's Will;

(c) Appointing The Chase Manhattan Bank (National Association) as successor trustee in the place and stead of the said Clemens G. Arlinghaus to serve as co-trustee under the said Will with Rosalie M. Arlinghaus;

(d) Approving the sale of decedent's tangible personal property to the plaintiff individually at the inventory and federal estate tax valuation thereof of $5,670;

(e) Approving the actions of plaintiff in making payments to DeWitt, Pepper & Howell, the Estate of Benjamin P. DeWitt and Louis Ogust for alleged legal services as shown in said Accounting;

(f) Allowing to Pitney, Hardin & Kipp, attorneys

has already been paid on account), together with their disbursements, and allowing other proper fees and costs herein; and

(g) Granting to plaintiff such other and further relief in the premises as this Court may deem just and equitable.

IT IS FURTHER ORDERED, pursuant to Rules 4:42-9(b) and 4:88-4 of the Civil Practice Rules:

(a) That DeWitt, Pepper & Howell and Sidney Pepper, a partner therein, Dorothy DeWitt, as Executrix of the Estate of Benjamin P. DeWitt, deceased, and Louis Ogust file with this Court, at least 20 days prior to the return date of this Order to Show Cause, their respective affidavits in form and substance sufficient to comply with the aforesaid Rules, stating in detail (i) the nature of the legal services they, and each of them, allegedly performed, (ii) the amount of time spent thereon, (iii) any particular novelty or difficulty thereof, (iv) an itemization of disbursements for which they were or expect to be reimbursed and (v) a statement as to whether and to what extent any part of the amounts paid for legal services allegedly performed is to be paid to or shared with an attorney or firm of attorneys of another state or jurisdiction, and if any amount is to be so paid or shared, there shall also be filed by the person or persons so pay-

ing or sharing, at least 20 days prior to the return date hereof, an affidavit of the foreign attorney or attorneys to whom any amounts are to be paid or with whom any amounts are to be shared stating in detail the nature of the services rendered by them;

(b) That the said DeWitt, Pepper & Howell and Sidney Pepper, a partner therein, Dorothy DeWitt, as Executrix of the Estate of Benjamin P. DeWitt, deceased, and Louis Ogust, on the return date of this Order to Show Cause, submit proof to the satisfaction of this Court as to what amounts, if any, are properly payable to them for legal services rendered and that they, and each of them, show cause why they should not be ordered and directed to repay to the estate such amounts as this Court may find to be excessive; and

(c) That in default of the timely filing of the aforesaid affidavits of legal services allegedly rendered or upon failure to submit proof to the satisfaction of this Court that any amounts are due them for legal services allegedly rendered, the said DeWitt, Pepper & Howell and Sidney Pepper, a partner therein, Dorothy DeWitt, as Executrix of the Estate of Benjamin P. DeWitt, deceased, and Louis Ogust show cause before this Court on the return date hereof why they and each of them should not be ordered and directed to repay to the estate the following sums paid to them on the dates indicated for alleged legal services

performed and expenses incurred:

PAYEE	AMOUNT	DATE OF PAYMENT
Dorothy DeWitt, as Executrix of the Estate of Benjamin P. DeWitt, deceased	$ 7,500.00	December 30, 1965
	7,500.00	December 31, 1965
DeWitt, Pepper & Howell	649.14	October 4, 1966
	15,000.00	December 30, 1966
	193.05	July 26, 1967
	4,000.00	January 2, 1968
Louis Ogust	750.00	June 11, 1968

IT IS FURTHER ORDERED that no interested party need be present at the hearing herein scheduled for Dec. 4th 1970 at the above time and place, unless such interested party shall wish to enter some objection to plaintiff's First Intermediate Account as to the allowances described in subparagraph (f) above, or to the other relief described in subparagraphs (b), (c), (d), (e) and (g) above.

With reference to the infant interested party, John C. Arlinghaus, IT IS FURTHER ORDERED, that, unless a guardian ad litem shall sooner be duly appointed for said minor upon his application made herein, plaintiff will apply to this Court on the 6th day of November - - - , 1970, at 9:30 a.m., or as soon thereafter as counsel may be heard, at the Monmouth County Court House, Freehold, New Jersey, for an Order appointing a guardian ad litem for said infant in this action.

Pursuant to Rule 4:67-4 of the Civil Practice Rules,

IT IS FURTHER ORDERED that any interested person who desires to be heard in this action, shall not later than 10 - days before November 6th - - - , 1970, serve upon plaintiff's attorneys, Pitney, Hardin & Kipp, at 570 Broad Street, Newark, New Jersey, 07102, such interested person's answer, answering affidavit or notice of motion returnable on said day; and that, in default thereof, this action may proceed ex parte with respect to all interested persons so defaulting.

IT IS FURTHER ORDERED that a copy of this Order, certified by counsel for plaintiff to be a true copy and a copy of the complaint, similarly certified but without exhibits, be served upon each of the above named parties, personally or by mailing the same to their last known addresses, certified mail, return receipt requested postage prepaid, within 20 - days from the date of this Order.

M. Raymond McGowan,
J.C.C.

A TRUE COPY.

Louis R. Aikins

Surrogate

ARLINGHAUS EXHIBIT 19

CABLE: LESAVOCATS

DE WITT, PEPPER & HOWELL

ATTORNEYS AND COUNSELLORS AT LAW

25 WEST 43RD STREET, NEW YORK, N.Y. 10036

TEL. (212) 564-6320

BENJAMIN P. DEWITT (1868-1968)
SIDNEY PEPPER
HARRY E. HOWELL

WASHINGTON, D.C. OFFICE:
1010 VERMONT AVENUE
(202) STERLING 3-3671

860d

November 2, 1970

Honorable M. Raymond McGowan
Monmouth County Court
Court House
Freehold, New Jersey 07728

Re: Estate of Frank H. Arlinghaus, Deceased
Monmouth County Court
Probate Division
Docket No. 77831

Dear Judge McGowan:

It appears that your Honor has signed an Order to Show Cause which directs me and my firm to submit details about the legal services and disbursements referred to therein. During the period involved therein I alone comprised the firm.

During August, 1970 I was seriously ill with a ruptured appendicitis, untreated for ten days, which resulted in an advanced case of peritonitis and the impairment of and removal of part of my colon. I have not resumed my professional work on a full time basis at my office and can only furnish the details hereinafter set forth without endangering my recovery.

In furnishing those details I do so as an Attorney out of respect for the Court and with no intention as a non-resident of New Jersey not personally served with process in the State of New Jersey to submit to the jurisdiction of the Court, and for the reason that the Executrix and I already have two pending actions in the State of New York, in the first of which I am seeking to enforce a written settlement agreement between us with a provision for an exchange of Releases. Within a day or two after the agreement was executed and after I had fully performed thereunder, the Executrix repudiated the agreement.

This letter is accordingly to be deemed a nullity, as if not submitted by me, if its submission by me could constitute a submission by me to the jurisdiction of a Court of New Jersey.

CABLE: LESAVOCATS

DE WITT, PEPPER & HOWELL
ATTORNEYS AND COUNSELLORS AT LAW
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Decedent was the voting Trustee for all the shares of Modern Talking Picture Service, Inc. and Modern Teleservice, Inc., closed corporations of which decedent and his family as donees were the majority stockholders.

The shares owned by decedent and his family were subject to options in favor of the companies and the other stockholders under which they had the right on favorable credit terms to acquire the shares of decedent and his family at relatively low prices pursuant to complicated formulae. The managements of the respective companies wished after decedent's death to make such acquisitions.

It is those shares of the two companies which were the basis for the very substantial increase in the assets of the estate. I believe the estate and the family realized approximately $3,000,000.00 by selling their shares to others and not to management and the other shareholders. A substantial part of my services related to the options and the resulting tax and other consequences of any exercise of the options.

The decedent's estate, while ultimately liquid, had a liquidity problem and had insufficient free assets for the payment of taxes, etc. without a sacrifice of its holdings in the two aforementioned companies.

The option holders likewise had a liquidity problem and were unable to purchase all of the shares for cash. The estate was confronted with the possibility of a sale of less than all of its and the family's holdings, which might result in the proceeds of the sale being taxed as ordinary dividends and the loss of its decision making control of the policies of the two companies with disastrous financial consequence.

The two aforementioned companies were largely service companies dependent on the retention of their key employees and their good will, both of which had to be preserved to make possible the sale of stock to outsiders. I was well acquainted with the problems by reason of my approximately thirty years connection with Modern Talking Picture Service, Inc. and its offshoot, Modern Teleservice, Inc. and my personal contacts with decedent over that period.

CABLE: LESAVOCATS

862a

DE WITT, PEPPER & HOWELL
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BENJAMIN P. DeWITT (1884-1968)
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(202) STERLING 3-3871

In addition to such services I assembled and prepared data for the preparation of the Federal Estate Tax Return and its audit in which I acted for the estate. Some of the valuation data was supported by my affidavits. The tax audit was unusually detailed because the I.R.S. agent was a former conferee of I.R.S., who raised every possible technicality. For example, he contended that because the decedent was the sole voting trustee for all the shares of the two aforementioned companies, his estate should be taxed with the value of all the shares of both companies. He, also, atempted to assess the estate with the value of decedent's Rumson Estate, which had been given by decedent to the Executrix following a heart attack. Numerous other inter vivos stock gifts of decedent to his family were also under attack.

The Executrix received $72,000.00 from Modern Talking Picture Service, Inc. as a post employment benefit of decedent, which I successfully excluded from decedent's taxable estate.

The Executrix came to New York on an average of at least once a week. On most of those trips we conferred at my office on estate matters for at least half a day. There were numerous other conferences with her co-trustee, her stock broker, her accountant and management personnel in which we both participated. Besides the meetings at which the Executrix was present, I had numerous meetings with those persons on estate matters at which she was not present.

There were numerous other services performed by me for the estate which I cannot now detail without a full examination of my files.

I am reasonably sure that I spent more than 1,000 hours on the estate's matters and that the services were worth substantially in excess of what I was paid.

My disbursements were made on behalf of the estate in the amounts billed and and paid by the estate. They comprised largely telephone charges, including toll..

CABLE: LESAVOCAT

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Honorable M. Raymond McGowan November 2, 1970

calls, postage and photo copies. They were all reasonable and necessary.

My services related substantially to Federal tax matters and shares of the two aforementioned companies and were performed in New York. As Chairman of the New York County Lawyers Association Committee on the Unauthorized Practice of the Law, I was conversant with the Waring case and the other applicable authorities, and in the light of my 30 years contact with decedent as attorney and friend, and with his companies, I am confident that I did not engage in the unauthorized practice of law in the State of New Jersey, and that I was entitled to the payments made to me, which were timed by a desire of the estate to obtain substantial income tax savings for the estate.

Respectfully,

SIDNEY PEPPER

SP:BH

cc: Pitney, Hardin & Kipp, Esqs. 570 Broad St., Newark, N.J. 07102

STATE OF NEW YORK)
COUNTY OF)SS.

SIDNEY PEPPER, being duly sworn, according to law, upon his oath deposes and says:

1. I have read the within letter, and the facts contained therein are true and that the value of services performed in the above captioned matter far exceed the monies paid to me.

Subscribed and sworn to before me this day of 1970.

SIDNEY PEPPER

ARLINGHAUS EXHIBIT 20

1819

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FILED AUG 30 1971
S. Thomas Surrogate

PITNEY, HARDIN & KIPP
70 BROAD STREET
NEWARK, N. J. 07102
201-623-1980

ATTORNEYS FOR Plaintiff

MONMOUTH COUNTY COURT
PROBATE DIVISION
DOCKET NO. 77831

In the Matter of the Estate :
of :
FRANK H. ARLINGHAUS, :
Deceased. :

Civil Action
On First Intermediate Account
JUDGMENT

This matter having been opened to the Court by Messrs. Pitney, Hardin & Kipp (Donald B. Kipp, Esquire appearing), counsel for plaintiff, Rosalie M. Arlinghaus, Executrix of the Last Will and Testament of Frank H. Arlinghaus, deceased, in the presence of Stuart A. Young, Jr., Esquire, Guardian Ad Litem for John C. Arlinghaus, a minor, and Messrs. Slavitt & Slavitt (Robert A. Abrams, Esquire appearing), counsel for Marie S. DeWitt, Executrix of the Estate of Benjamin P. DeWitt, deceased, and there being no appearance on behalf of Messrs. DeWitt, Pepper & Howell, and the Court, on motion of counsel for plaintiff, having entered Orders to

Show Cause on October 9 and 26, 1970; and proof of proper service of said Orders to Show Cause having been duly filed with the Court; and the Surrogate of Monmouth County having audited and stated said account and having placed the same on file in his office twenty days previous to March 12, 1971; and the Surrogate having on this last named date reported said account to the Court for allowance and settlement; and the Court having examined said account, and having found said account to be correct in all particulars, and no exceptions or objections having been made; and the Court by Order entered herein on November 13, 1970 having appointed Stuart A. Young, Jr., Esquire as Guardian Ad Litem for John C. Arlinghaus, an infant over the age of seventeen years, he being the only infant person interested in these proceedings; and the said Guardian Ad Litem having appeared and filed his written Report as such; and it appearing that there is no person interested in these proceedings who is a member of the Armed Forces of the United States of America; and the Court having read and considered the pleadings, the Report of the said Guardian Ad Litem, all papers and memoranda filed herein, and having heard and considered the argument of counsel, and having filed its written Opinion dated July 12, 1971;

IT IS on this 30th - day of August - - - , 1971,

ORDERED AND ADJUDGED THAT:

1. The First Intermediate Account of plaintiff, Rosalie M. Arlinghaus as Executrix of the Last Will and

Testament of Frank H. Arlinghaus, deceased, be and the same is hereby settled, approved and allowed in all respects as stated; and all matters and things reported therein be and the same hereby are approved and confirmed by this Court, including, but not by way of limitation, the following:

(a) all receipts and disbursements of both corpus and income, the acquisitions, retentions and changes of investments, and the statement of assets of which the balance of the estate consists, and all matters relating thereto;

(b) all acts and omissions to act of the plaintiff as disclosed in said account;

(c) all acquisitions of investments, all sales and dispositions of the assets of the estate and also all allocations of items as between the principal and income of the estate;

(d) all distributions and disbursements of principal and income made during the period covered by said account; and

(e) the investment in and the retention of all those assets which remained in the plaintiff's hands on September 1, 1969 (the closing date of said First Intermediate Account).

2. The resignation of Clemens G. Arlinghaus as one of the trustees under said Will be and the same is hereby

approved and the said Clemens G. Arlinghaus is relieved and discharged fully and finally of all further duties as trustee under said Testator's Will.

3. The renunciations of H. Rohs Arlinghaus, A. Lincol Heck and Alix Ann Arlinghaus as successor co-trustees under said Will be and the same are hereby approved and accepted.

4. The Chase Manhattan Bank (National Association) be and it hereby is appointed successor co-trustee in the place and stead of the said Clemens G. Arlinghaus to serve under the said Will with plaintiff, Rosalie M. Arlinghaus.

5. The sale of decedent's tangible personal property to plaintiff individually at the inventory and federal estate tax valuation thereof of $5,670 be and the same is hereby approved.

6. The actions of plaintiff in making payments to DeWitt, Pepper & Howell, the Estate of Benjamin P. DeWitt and Louis Ogust, Esquire for alleged legal services as reflected in said accounting be and the same are hereby approved.

7. Louis Ogust, Esquire, attorney for plaintiff, be and he hereby is allowed a counsel fee of $750 (all of which has heretofore been paid on account).

8. The payments heretofore made to Marie S. DeWitt,

Executrix of the Estate of Benjamin P. DeWitt, deceased, for alleged legal services, in the aggregate amount of $15,000 be and the same are hereby disallowed in all respects and, the Court having found that it has personal jurisdiction over the said Marie S. DeWitt, Executrix of the Estate of Benjamin P. DeWitt, deceased, judgment is hereby entered in favor of plaintiff and against the said Marie S. DeWitt, Executrix of the Estate of Benjamin P. DeWitt, deceased, in the amount of $15,000, together with interest thereon from January 1, 1966, but without costs; provided, however, that on or before August 30, 1971 the said Marie S. DeWitt, Executrix of the Estate of Benjamin P. DeWitt, deceased, may file affidavits in accordance with Rules 4:42-9(b) and 4:88-4, and if the same are in form and substance satisfactory to this Court, may move on or before said date to vacate or modify this paragraph 8 of the Judgment.

9. The payments heretofore made to DeWitt, Pepper & Howell for alleged legal services and alleged disbursements said to have been incurred in connection therewith, in the aggregate amount of $19,842.19 be and the same are hereby disallowed in all respects and, the Court having found that it has personal jurisdiction over the said DeWitt, Pepper & Howell and over Sidney Pepper and Harry E. Howell, individually as partners in the said DeWitt, Pepper & Howell, the said DeWitt, Pepper & Howell, Sidney Pepper and Harry E. Howell

not having filed affidavits in accordance with Rules 4:42-9(b) and 4:88-4 in form and substance satisfactory to this Court on or before July 27, 1971, judgment is hereby entered in favor of plaintiff and against the said DeWitt, Pepper & Howell and the said Sidney Pepper and Harry E. Howell, individually as partners in the said DeWitt, Pepper & Howell in the amount of $19,842.19, together with interest thereon from January 2, 1968, but without costs.

10. Pitney, Hardin & Kipp, attorneys for plaintiff, be and they hereby are allowed a counsel fee of $10,000 (of which $5,000 has already been paid on account), together with their aggregate, unreimbursed disbursements in the amount of $ 763.52.

11. Stuart A. Young, Jr., Esquire be and he hereby is allowed $4,000 for his services as Guardian Ad Litem for John C. Arlinghaus, a minor interested party, together with his aggregate, unreimbursed disbursements in the amount of $ 20.70.

12. The Surrogate of Monmouth County is allowed $1,980.08 as and for his fees on this accounting.

Walter H. Conklin,
WALTER H. CONKLIN
XXXXXX J.S.C. T/A.

A TRUE COPY
S. Thomas Bafiuins.
Surrogate

Service of three (3) copies of the within Exhibit Volume (2)
is admitted this 24th day of December 1975

Casey, Lane & Mittendorf

Attorneys for Appellees and Appellee-Cross Appellant